

BRIEFING MEMO
April 2021

MEMORANDUM FOR THE ASSISTANT ADMINISTRATOR

POC: Andrew Sawyers, OWM, sawyers.andrew@epa.gov

SUBJECT: NPDES Concentrated Animal Feeding Operation (CAFO) Program

I. **REQUESTING OFFICE:** OWM, Water Permits Division

II. **TIMING:** No deadlines.

III. **PURPOSE:** Provide an overview of the National Pollutant Discharge Elimination System (NPDES) CAFO program, including program implementation challenges and current petition.

IV. **BACKGROUND AND HISTORY**

- 1970s: CAFOs were identified as point sources in the Clean Water Act (CWA). EPA promulgated effluent guidelines (1974) and NPDES regulations (1976).
- 2003: EPA made substantial changes to both the NPDES permitting regulations and the effluent guidelines. EPA's 2003 CAFO rule was challenged by Waterkeeper Alliance and other parties, including industry groups, in the Second Circuit Court of Appeals¹. The court remanded significant parts of the 2003 rule, including which facilities required a permit, public participation in the terms of the nutrient management plans and the new source performance standards. The Courts upheld the Agency's interpretation of the Ag stormwater exemption.
- 2008: EPA issued revisions to address the Waterkeeper remand. The 2008 rule was challenged by National Pork Producers Council (NPCC) and other parties, including Natural Resources Defense Council (NRDC) in the Fifth Circuit Court of Appeals². The Fifth Circuit again issued a partial remand limiting which CAFOs can be required to have NPDES permit coverage. NRDC settled out of the

¹ Waterkeeper Alliance et al. v. EPA, 399 F.3d 486 (2d Cir. 2005).

² National Pork Producers Council v. EPA, 635 F.3d 738, 756 (5th Cir. 2011).

NPPC lawsuit in exchange for EPA proposing the CAFO reporting rule in 2011, which was subsequently withdrawn and never finalized.

- 2012: EPA issued a revised rule in 2012, that replaced the former “duty to apply” provision for CAFOs by stating that CAFOs may not discharge without an NPDES permit.
- Between 2011 and 2019, the number of permitted CAFOs in the U.S. has decreased by roughly 12% while the number of CAFOs in the U.S. has increased by roughly 12.6%. There are approximately 21,000 CAFOs in the U.S. and approximately 6,700 (32%) of them have NPDES coverage.

V. KEY ISSUES

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

EPA's Effort to Enhance Program Implementation to Improve Water Quality:

- The Animal Agriculture Discussion Group (AADG), established by OWM in 2013, provides a forum for industry to engage with federal partners and permitting authorities, to discuss implementation challenges and best practices.
- NRCS and EPA developed nutrient management planning tools and a series of on-line animal ag education modules.
- EPA collaborated with the US Poultry & Egg Association to develop a set of compliance videos. Region 3 also collaborated with U.S. Poultry and Egg on a *"What to Expect When You're Inspected"* video.
- Nutrient Recycling Challenge: Significant engagement of a wide variety of stakeholders to promote innovative technologies for utilizing manure.

- Provided contractor assistance to several states and tribes on discrete projects that aimed to address a particular problem or enhance a particular program.
- Continue to engage with poultry & egg sector on possibilities to simplify NMP template for non-CAFO AFOs.
- State Program Compendiums to highlight note-worthy state program features that might be transferable.
- ACWA-sponsored forums, biennial roundtables and special topic engagements with state NPDES programs.

VI. STAKEHOLDER INVOLVEMENT: See items under section V.

VII. NEXT STEPS/UPCOMING DEADLINES

Current Challenges:

- In 2017 Food & Water Watch (FWW), et al petitioned EPA to make changes to the CAFO program.
 - The petition outlines the **Ex. 5 Deliberative Process (DP)** the CAFO program and suggests
Ex. 5 Deliberative Process (DP)
 - In 2017 Water Permits Division met several times with FWW and some of the co-petitioners to discuss some of the asks.
 - EPA has not formally responded to the petition. **Ex. 5 Deliberative Process (DP)**
Ex. 5 Deliberative Process (DP)
- In 2015 Erika Brotzman, a law student at the University of Colorado, petitioned EPA to make changes to the CAFO program. EPA has not formally responded to the petition.
- In 2020 Food & Water Watch challenged EPA Region 10's Idaho CAFO General Permit in the Ninth Circuit. Oral arguments are scheduled for May 6, 2021.
- EPA Region 6 is in the process of reissuing the New Mexico CAFO General Permit.
Ex. 5 Deliberative Process (DP)
- Ohio Department of Agriculture is seeking NPDES authorization in order to assume the CAFO permitting program from Ohio EPA.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

VIII. APPENDECIES

See appended PowerPoint slides for additional information, data and figures.

Message

From: Greenwald, Kathryn [Greenwald.Kathryn@epa.gov]
Sent: 11/19/2020 8:02:10 PM
To: Bahk, Benjamin [Bahk.Benjamin@epa.gov]; Buterbaugh, Kristin [Buterbaugh.Kristin@epa.gov]
CC: VanTil, Barbara [vantil.barbara@epa.gov]
Subject: FW: CAFO petitions under review
Attachments: Talking Points for Andrew about CAFO Petitions draft.docx; Appendix A for Petitions to Revise CAFO Regulations draft.docx; citizens_cafo_cwa_petition.pdf; Brotzman_Alt Petition.pdf

Just a "FYI" at the moment. I have not been involved in any of these CAFO petitions prior to receiving George Utting's (OWM/WPD) email today. It looks like George is just keeping OECA in the loop and there is no required action by us at this time.

Kathy

From: Utting, George <Utting.George@epa.gov>
Sent: Thursday, November 19, 2020 1:44 PM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Cc: Shriner, Paul <Shriner.Paul@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>
Subject: CAFO petitions under review

As you may know, EPA received two petitions to revise the CAFO regulations, in 2015 and 2017. We have been asked by Anna Wildeman to take a look at them and develop a response to them. In order to better understand the scope of the petitions and the commitment of resources that would be necessary to respond to them, I am sharing two draft documents. One is a set of talking points for Andrew and the other is an appendix that charts out the issues raised in the petitions.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Simma, Nizanna, and Marcus: I have incorporated Simma's edits and made a few other edits of my own to the draft talking points. One key change

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Paul and Kathy: I think the draft talking points and attachment are at a point where you might find them useful. I am fully aware that you may have other perspectives that are not reflected in these drafts. Please feel free to comment on them.

I am also attaching copies of the original petitions.

Talking Points for Andrew about CAFO Petitions

- We have been asked to provide responses to two rulemaking petitions to revise the CWA CAFO regulations
- The two petitions are:
 - A petition filed in 2017 by Food & Water Watch and a coalition of other environmental petitioners, and
 - A petition filed in 2015 by Erika Brotzman.
- The FWW petition presents more issues (about 20 specific regulatory issues), in greater detail, **Ex. 5 Deliberative Process (DP)** It requests EPA to revise the effluent limitations guidelines, permitting regulations, and additional compliance practices.
 - For example, the petition requests that EPA change its regulations as follows:
 - Establish a presumption that certain CAFOs discharge;
 - Revise its interpretation of the agricultural stormwater exemption;
 - Require that integrators and other operators be co-permitted with producers;
 - Require water quality monitoring in CAFO NPDES permits;
 - Revise the Definition of Production Area
 - Revise or Eliminate the “Medium CAFO” Category
 - Add an array of requirements to the ELGs, and limit discretion for state interpretation of national standards for CAFOs
 - See attachment for a more detailed explanation of the issues raised.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Appendix A for Petitions to Revise CAFO Regulations

I. Chart detailing the Issues raised in the 2017 Food & Water Watch Petition:

Major issues raised in petition	Additional points raised in petition	Lead Office	Ex. 5 Deliberative Process (DP)		
I. EPA'S CAFO REGULATIONS MUST ENSURE THAT ALL DISCHARGING CAFOS OBTAIN NPDES PERMITS					
1. EPA should establish an evidentiary presumption that certain CAFOs discharge and are either subject to NPDES permitting or must rebut the presumption by demonstrating they do not discharge	<ul style="list-style-type: none"> - EPA Has Clear Authority to Establish a Presumption that Certain CAFOs Discharge - EPA Has Sufficient Evidence to Support a Presumption that CAFOs with Certain Characteristics Discharge -- Land application (dry weather discharges) -- Production area 	OWM OGC OECA	Ex. 5 Deliberative Process (DP)		Ex. 5 Deliberative Process (DP)

			Ex. 5 Deliberative Process (DP)		Ex. 5 Deliberative Process (DP)
2. EPA should revise its interpretation of the agricultural	- EPA's Current Interpretation of the	OGC OWM	Ex. 5 Deliberative Process (DP)		Ex. 5 Deliberative Process (DP)

stormwater exemption such that no discharges resulting from CAFO activities are exempt as non-point source pollution	Agricultural Stormwater Exemption is inadequate - EPA Has Clear Authority to Revise its Interpretation of the Agricultural Stormwater Exemption - The Language and History of the Statute Indicate Congress' Intent to Regulate All CAFO Pollution		Ex. 5 Deliberative Process (DP)		Ex. 5 Deliberative Process (DP)
3. EPA must ensure that integrators who meet the CWA definition of owner or operator are co-permitted with contract producers, as the statute has always required	EPA has already established that many of these corporate entities are CWA operators, but it must now clarify by regulation which entities meet the definition of an operator and are required to obtain NPDES permits	OWM OECA	Ex. 5 Deliberative Process (DP)		Ex. 5 Deliberative Process (DP)
4. EPA should revise certain definitions in the CAFO regulations					

	<p>A. “Production Area” - revise to “ensure that all areas associated with the CAFO facility are subject to the CAFO ELGs” -- explaining that each CAFO has a single, contiguous production area that encompasses all listed aspects of the operation and all areas in between, and that the agricultural stormwater exemption may never be applied to discharges from the CAFO production area.</p>	<p>OWM OGC OST</p>	<p>Ex. 5 Deliberative Process (DP)</p>		<p>Ex. 5 Deliberative Process (DP)</p>
	<p>B. Revise or Eliminate the “Medium CAFO” Category -- three-tiered system exempts a large number of operations approaching the Large CAFO size threshold and their land application practices from regulation</p>	<p>OWM OGC OECA OST</p>	<p>Ex. 5 Deliberative Process (DP)</p>		<p>Ex. 5 Deliberative Process (DP)</p>

					Ex. 5 Deliberative Process (DP)
	C. EPA Should Impose Meaningful Limits on States' Discretion in Designating AFOs as CAFOs	OWM OGC OECA			
II. EPA MUST STRENGTHEN CAFO NPDES PERMITS TO ADEQUATELY PROTECT WATER QUALITY					
1. EPA should revise the requirements applicable to all CAFOs to ensure compliance with the CWA and permit terms	A. EPA must require water quality monitoring in CAFO NPDES permits	OWM OGC OST OECA	Ex. 5 Deliberative Process (DP)		

			Ex. 5 Deliberative Process (DP)		Ex. 5 Deliberative Process (DP)
	B. EPA Must Strengthen Annual Reporting Requirements (and	OWM OGC			
2. EPA should revise the CAFO ELGs to address additional CAFO pollutants of concern, prohibit	A. The CAFO ELGs Should Apply to All CAFOs	OST OGC			

practices known to harm water quality, and otherwise strengthen existing requirements			Ex. 5 Deliberative Process (DP)		
	B. EPA Must Establish Application Disclosure requirements, BAT and NSPS Limits, and Monitoring Requirements for Additional CAFO Pollutants of Concern – extend application requirements, ELGs, and permit limits to include other pollutants of concern	OST OWM OGC			Ex. 5 Deliberative Process (DP)

					change, due to the relationship to soil capacity and crop uptake. <i>[OST]</i>
	<p>C. The CAFO ELGs' NMP Requirements Must Prioritize Protecting Water Quality</p> <p>-- EPA must establish stronger federal requirements to minimize harmful runoff, rather than relying almost solely on NMPs and on state-promulgated technical standards.</p>	<p>OST OGC OWM</p>	<div>Ex. 5 Deliberative Process (DP)</div>		<div>Ex. 5 Deliberative Process (DP)</div>
	<p>D. Technical Standards Must Prohibit Practices Known to Harm Water Quality –</p> <hr/>	<p>OST OGC OWM OECA</p>			

	<p>(1) Manure Storage in Unlined and Inadequately Lined Lagoons and Impoundments</p> <hr/> <p>(2) Ventilation of Pollutants near Waters or Conduits to Waters of the U.S. -- air deposition</p> <hr/> <p>(3) Application on Frozen, Saturated, or Snow-Covered Ground -- EPA guidance inadequate</p> <hr/> <p>(4) Spray Irrigation of Manure</p>	<div data-bbox="1031 215 1337 425">Ex. 5 Deliberative Process (DP)</div> <hr/> <div data-bbox="1031 850 1337 1412">Ex. 5 Deliberative Process (DP)</div>	<div data-bbox="1598 231 1892 1412">Ex. 5 Deliberative Process (DP)</div>
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	<div>(5) Manure Application on Steep Slopes</div> <div>(6) Manure Storage in Exposed Stockpiles</div>		Ex. 5 Deliberative Process (DP)	Ex. 5 Deliberative Process (DP)
	E. State Permitting Programs Cannot Effectively Fill the Gaps Left by the Absence of	OST OGC OWM OECA		

	Strong National Standards		<div>Ex. 5 Deliberative Process (DP)</div>		<div>Ex. 5 Deliberative Process (DP)</div>
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	F. EPA’s Assumptions Regarding the Frequency of Storm Events Are No Longer Accurate	OST OGC OECA	Ex. 5 Deliberative Process (DP)		Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Message

From: Greenwald, Kathryn [Greenwald.Kathryn@epa.gov]
Sent: 8/30/2017 4:49:58 PM
To: Pollins, Mark [Pollins.Mark@epa.gov]; Theis, Joseph [Theis.Joseph@epa.gov]; Bahk, Benjamin [Bahk.Benjamin@epa.gov]
Subject: Todays OWM/OECA/ CAFO Petitioners meeting at 3 pm
Attachments: citizens_cafo_cwa_petition.pdf; 170815 EPA Meeting Agenda.pdf

Mark, joe, and Ben,

FYI, attached is the CAFO CWA petition filed against EPA by several environmental groups for weak federal CAFO regulations and not making enough progress in regulating pollution from CAFOs.

The purpose of today's meeting is to listen to the enviros concerns per the attached agenda.

Kathy

Message

From: Levine, MaryEllen [levine.maryellen@epa.gov]
Sent: 3/27/2017 10:13:18 PM
To: Kramer, Kim [Kramer.Kim@epa.gov]; Weekley, Erin [weekley.erin@epa.gov]; Steiner-Riley, Cara [Steiner-Riley.Cara@epa.gov]; Shepherdson, Melanie [Shepherdson.Melanie@epa.gov]; Schaner, Greg [Schaner.Greg@epa.gov]; Weber, Courtney [Weber.Courtney@epa.gov]; Rivera, Nina [Rivera.Nina@epa.gov]; Kao, Jessica [Kao.Jessica@epa.gov]; Williams, Ann [Williams.Ann@epa.gov]; Rose, Cheryl [Rose.Cheryl@epa.gov]; Mills, Flaire [Mills.Flaire@epa.gov]; Bahk, Benjamin [Bahk.Benjamin@epa.gov]; Moffatt, Brett [Moffatt.Brett@epa.gov]; VonVacano, Marcela [VonVacano.Marcela@epa.gov]; Humphrey, Leslie [Humphrey.Leslie@epa.gov]; Bagley, Melissa [Bagley.Melissa@epa.gov]; Magnuson, Janet [Magnuson.Janet@epa.gov]; Hudiburgh, Gary [Hudiburgh.Gary@epa.gov]; Hall, Alexander [Hall.Alexander@epa.gov]; Field, Stephen [Field.Stephen@epa.gov]; Utting, George [Utting.George@epa.gov]; Kermish, Laurie [Kermish.Laurie@epa.gov]; Klassman, Debra [klassman.debra@epa.gov]; Sweeney, Stephen [Sweeney.Stephen@epa.gov]; OGC WLO [OGC_WLO@epa.gov]; Miller, Patricia G. [Miller.Patriciag@epa.gov]; Szalay, Endre [Szalay.Endre@epa.gov]; Allnutt, David [Allnutt.David@epa.gov]; Shamet, Stefania [Shamet.Stefania@epa.gov]; Muller, Sheldon [Muller.Sheldon@epa.gov]; Rice, Cassandra [rice.cassandra@epa.gov]; Bearley, Mia [Bearley.Mia@epa.gov]; Tierney, Cate [Tierney.Cate@epa.gov]; Saporita, Chris [Saporita.Chris@epa.gov]; Bathersfield, Nizanna [Bathersfield.Nizanna@epa.gov]; Huston, Liz [Huston.Liz@epa.gov]; Theis, Joseph [Theis.Joseph@epa.gov]; Gillespie, David [Gillespie.David@epa.gov]; Stein, Mark [Stein.Mark@epa.gov]; Branigan, Terence [Branigan.Terence@epa.gov]; Roose, Rebecca [Roose.Rebecca@epa.gov]; Drelich, David [Drelich.David@epa.gov]; Perkins, Angela [perkins.angela@epa.gov]; Silver, Wendy [Silver.Wendy@epa.gov]; Kopf, Jeff [Kopf.Jeff@epa.gov]; Livingston, Peggy [Livingston.Peggy@epa.gov]; Ryland, Renea [Ryland.Renea@epa.gov]; Vinch, James [Vinch.James@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Bunch, Howard [Bunch.Howard@epa.gov]; Dart, Denny [Dart.Denny@epa.gov]; Byrne, Jennifer [Byrne.Jennifer@epa.gov]; Bartlett, Deane [Bartlett.Deane@epa.gov]; Breedlove, Dan [Breedlove.Dan@epa.gov]; Campbell, Rich [Campbell.Rich@epa.gov]; Dain, Gregory [Dain.Greg@epa.gov]; Cantello, Nicole [cantello.nicole@epa.gov]; Cozad, David [Cozad.David@epa.gov]; Ghosh, Mita [Ghosh.Mita@epa.gov]; Flannery-Keith, Erin [Flannery-Keith.Erin@epa.gov]; Galavotti, Holly [Galavotti.Holly@epa.gov]; Feinmark, Phyllis [Feinmark.Phyllis@epa.gov]; Brantner, Kelly A. [Brantner.Kelly@epa.gov]; Fentress, Robert [Fentress.Robert@epa.gov]
CC: Stigler, Terrance [Stigler.Terrance@epa.gov]; Mikalian, Charles [mikalian.charles@epa.gov]; Pechulis, Kevin [Pechulis.Kevin@epa.gov]; Bieri, Britt [bieri.britt@epa.gov]; McCain, Shane [mccoin.shane@epa.gov]; Mancusi-Ungaro, Philip [Mancusi-Ungaro.Philip@epa.gov]; Garnett, Desean [Garnett.Desean@epa.gov]; Witt, Richard [Witt.Richard@epa.gov]; R7 Roomsetup AV Helpdesk [r7-RoomSetup-AV-Helpdesk@epa.gov]; Messier, Dawn [Messier.Dawn@epa.gov]; Wendelowski, Karyn [wendelowski.karyn@epa.gov]; Engelman, Alexa [ENGELMAN.ALEXA@EPA.GOV]; Mullings, Brandon [Mullings.Brandon@epa.gov]; Dean, Abigail [Dean.Abigail@epa.gov]; Glazer, Thomas [glazer.thomas@epa.gov]; Wightman, Katrina [Wightman.Katrina@epa.gov]; Greenblum, Max [greenblum.max@epa.gov]; Wade, Alexis [Wade.Alexis@epa.gov]; Perkins, Erin [Perkins.Erin@epa.gov]; Darman, Leslie [Darman.Leslie@epa.gov]; Frey, Bert [frey.bertram@epa.gov]; Morris, Brenda [Morris.Brenda@epa.gov]; Lawrence, Chad [Lawrence.Chad@epa.gov]; Eskridge, Willie [eskridge.willie@epa.gov]; Berol, David [Berol.David@epa.gov]; Volk, Everett [volk.everett@epa.gov]; Zomer, Jessica [Zomer.Jessica@epa.gov]; Horwitz, Sylvia [Horwitz.Sylvia@epa.gov]; Day, Christopher [Day.Christopher@epa.gov]; Ford, Peter [Ford.Peter@epa.gov]; Curtin, James [curtin.james@epa.gov]; Wagner, Michael [wagner.michael@epa.gov]; Prabhu, Aditi [Prabhu.Aditi@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]; Hook, Robert [Hook.Robert@epa.gov]; Wehling, Carrie [Wehling.Carrie@epa.gov]; Gable, Kelly [Gable.Kelly@epa.gov]; Moreno, Sarah [moreno.sarah@epa.gov]; Hayes, Sharon [Hayes.Sharon@epa.gov]; Carlson, Deborah [carlson.deboraha@epa.gov]; Nalven, Heidi [Nalven.Heidi@epa.gov]; Engelmann, Robert [Engelmann.Robert@epa.gov]; Schroer, Lee [schroer.lee@epa.gov]; Thurmon, Clarke [Thurmon.Clarke@epa.gov]; Seabury, Nacente [seabury.nacente@epa.gov]; Denawa, Mai [Denawa.Mai@epa.gov]; Wells, Kimberly [wells.kimberly@epa.gov]; Blake, Ellen [Blake.Ellen@epa.gov]; Jackson, Julia [Jackson.Julia@epa.gov]; McLaren, William [mclaren.william@epa.gov]
Subject: Attachments from today's Month Water Legal Issues Video/Call-In -
Attachments: Food and Water Watch petition citizens_cafo_cwa_petition.pdf; Va Coal Ash decision March 2017.pdf; CLF_v__EPA_(MA_RDA)_-_Opinion_Granteeing_Motion_to_....pdf; Letter to EPA Submitting Petition for Reconsideration w_exhibits-c.pdf

FYI – Sierra Club v BNSF (coal train / coal discharge case) citation 2016 U.S. Dist. Lexis 147786

- *Mary Ellen*

Mary Ellen Levine
Assistant General Counsel
Water Law Office, Office of General Counsel
7510 C WJC North
(202) 564-5487

Appointment

From: Kupchan, Simma [Kupchan.Simma@epa.gov]
Sent: 3/14/2017 4:49:29 PM
To: Kupchan, Simma [Kupchan.Simma@epa.gov]; Levine, MaryEllen [levine.maryellen@epa.gov]; Curtin, James [curtin.james@epa.gov]; Nagle, Deborah [Nagle.Deborah@epa.gov]; Abrams, Nancy [Abrams.Nancy@epa.gov]; Utting, George [Utting.George@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Duchovnay, Andrew [Duchovnay.Andrew@epa.gov]; Shenk, Kelly [shenk.kelly@epa.gov]; McGuigan, David [McGuigan.David@epa.gov]; Day, Christopher [Day.Christopher@epa.gov]; Havard, James [Havard.James@epa.gov]; Lewicki, Chris [Lewicki.Chris@epa.gov]; Pollins, Mark [Pollins.Mark@epa.gov]; Theis, Joseph [Theis.Joseph@epa.gov]; Bahk, Benjamin [Bahk.Benjamin@epa.gov]; Gable, Kelly [Gable.Kelly@epa.gov]; Buterbaugh, Kristin [Buterbaugh.Kristin@epa.gov]; Greenwald, Kathryn [Greenwald.Kathryn@epa.gov]; Shriner, Paul [Shriner.Paul@epa.gov]; Matuszko, Jan [Matuszko.Jan@epa.gov]
CC: Trulear, Brian [Trulear.Brian@epa.gov]; Zolandz, Mark [Zolandz.Mark@epa.gov]
Subject: CAFO Rulemaking Considerations
Location: DCRoomARN6013/DC-Ariel-Rios-OGC; DCConfARN-8662993188-C2025645476/WLO-Conf-Line/DC-Ariel-Rios-OGC
Start: 3/22/2017 8:00:00 PM
End: 3/22/2017 9:00:00 PM
Show Time As: Busy

Required Attendees: Kupchan, Simma; Levine, MaryEllen; Curtin, James; Nagle, Deborah; Abrams, Nancy; Utting, George; Molloy, Jennifer; Duchovnay, Andrew; Shenk, Kelly; McGuigan, David; Day, Christopher; Havard, James; Lewicki, Chris; Pollins, Mark; Theis, Joseph; Bahk, Benjamin; Gable, Kelly; Buterbaugh, Kristin; Greenwald, Kathryn; Paul Shriner; Jan Matuszko
Optional Attendees: Trulear, Brian; Zolandz, Mark

The purpose of this meeting is to evaluate and think about next steps on two drivers for considering new CAFO regulations:

Ex. 5 AC/AWP/DP

<http://www.foodandwaterwatch.org/news/dozens-advocacy-groups-challenge-epa-factory-farm-pollution>

CAFO Briefing for OW

Objective: Within the context of the FWW petition and obtaining a decision **Ex. 5 Deliberative Process (DP)** provide an overview of the CAFO regulatory program, with a focus on the very real challenges that impede success.

Ex. 5 Deliberative Process (DP)

Outline:

Background. Should be limited (more-or-less) to the following:

- CAFOs were identified as point sources in the original CWA and NPDES regulations promulgated in the 1970s. However, it wasn't until the early 2000s that more specific permitting regulations and an effluent guideline were established. EPA's 2003 CAFO rule was challenged by Waterkeeper Alliance et al, and a portion remanded. EPA issued revisions in 2008 that were immediately challenged by National Pork Producers Council et al, and that court issued another partial remand. EPA issued a revised rule in 2012.
- Since the 2012 rule, which, among other things and consistent with the decision of the 5th Circuit, stipulated that only CAFOs that discharge must have an NPDES permit, the number of permitted CAFOs in the U.S. has decreased. Meanwhile, the number of CAFOs in the U.S. has increased. Currently there are approximately 21,000 CAFOs in the U.S. and approximately 6700 of them have NPDES coverage. Some CAFOs have coverage under state permits.
- Some numeric context
 - With respect to numbers of farms: there are nearly 1 million farms in the U.S. with livestock.
 - With respect to numbers of animals: there are approximately 82 million livestock animals in the U.S. Approximately 60 million of them (42%) are at CAFOs (permitted and unpermitted).
 - With respect to numbers of fertilized acres: there are approximately 250 million fertilized farm acres in the U.S. Of those, approximately 20 million are fertilized with manure. Of those, approximately 2 million manured acres (or 1% of total fertilized farm acres) are at CAFOs (permitted and unpermitted).

Current Status re: Water Quality.

- NPDES requirements stipulate requirements for production areas and land application. **Ex. 5 Deliberative Process (DP)** the framework for controlling discharges from production areas. **Ex. 5 Deliberative Process (DP)**
- The most significant water quality problems generally originate with land application because of it relies entirely on applying manure, litter and wastewater consistent with a nutrient management plan and:

- The technical standards for nutrient management are determined by each state, and they are generally relying on the NRCS 590 standard. **Ex. 5 Deliberative Process (DP)**

○ **Ex. 5 Deliberative Process (DP)**

- The definition of ag stormwater (regulatory) and the ag stormwater exemption (statutory) mean that resulting discharges from land application are essentially nonpoint sources.
- Manure, litter and process wastewater transferred to a non-CAFO operator is no longer subject to any federal regulatory controls.

Current Challenges/Opportunities.

- In 2016 Food & Water Watch, et al petitioned EPA to make changes to the CAFO program.
 - The petition outlines, **Ex. 5 Deliberative Process (DP)** of the program and the **Ex. 5 Deliberative Process (DP)**
 - The petition makes a number of suggestions for how EPA should fix the short-comings.

Ex. 5 Deliberative Process (DP)

- EPA has not responded to the petition.

Message

From: Molloy, Jennifer [molloy.jennifer@epa.gov]
Sent: 3/4/2021 3:48:08 PM
To: Utting, George [Utting.George@epa.gov]; Zobrist, Marcus [Zobrist.Marcus@epa.gov]; Bonnelycke, Nina [Bonnelycke.Nina@epa.gov]; Durant, Chelsea [durant.chelsea@epa.gov]
Subject: RE: ag stuff for OW

I'm with you 100% on that. I think we need to look at it as an opportunity and not blow it.

Jenny Molloy
U.S. EPA
Water Permits Division

Ex. 6 Personal Privacy (PP)

molloy.jennifer@epa.gov

From: Utting, George <Utting.George@epa.gov>
Sent: Thursday, March 4, 2021 10:44 AM
To: Molloy, Jennifer <molloy.jennifer@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>; Durant, Chelsea <durant.chelsea@epa.gov>
Subject: RE: ag stuff for OW

I'm beginning to like the FWW petition more and more.

From: Molloy, Jennifer <molloy.jennifer@epa.gov>
Sent: Thursday, March 04, 2021 10:42 AM
To: Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Utting, George <Utting.George@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>; Durant, Chelsea <durant.chelsea@epa.gov>
Subject: ag stuff for OW

Ex. 5 Deliberative Process (DP)

there are things we want a lengthier briefing on (FWW petition for example) this is an opportunity to put in a teaser and mention that we need to have a separate discussion.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Jenny Molloy
U.S. EPA

Ex. 6 Personal Privacy (PP)

molloy.jennifer@epa.gov

From: Zobrist, Marcus <Zobrist.Marcus@epa.gov>

Sent: Wednesday, March 3, 2021 8:42 AM

To: Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>; Durant, Chelsea <durant.chelsea@epa.gov>

Subject: FW: FOR REVIEW: second draft of a 100-day list of ag innovation actions

See below and attached.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

From: Weiss, Kevin <Weiss.Kevin@epa.gov>

Sent: Tuesday, March 02, 2021 6:29 PM

To: Zobrist, Marcus <Zobrist.Marcus@epa.gov>

Subject: FW: FOR REVIEW: second draft of a 100-day list of ag innovation actions

From: Sawyers, Andrew <Sawyers.Andrew@epa.gov>

Sent: Tuesday, March 2, 2021 6:21 PM

To: Kloss, Christopher <Kloss.Christopher@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>; Stein, Raffael <Stein.Raffael@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>

Cc: Miller, Wynne <Miller.Wynne@epa.gov>; Nguyen, Amelia <nguyen.amelia@epa.gov>

Subject: FW: FOR REVIEW: second draft of a 100-day list of ag innovation actions

Hello Chris and Raffael, do you have any ideas/input? Chris, I'll ask Tom to work with you and Kevin.

From: Wall, Tom <Wall.Tom@epa.gov>

Sent: Tuesday, March 2, 2021 3:08 PM

To: Sawyers, Andrew <Sawyers.Andrew@epa.gov>; Miller, Wynne <Miller.Wynne@epa.gov>

Cc: Goodin, John <Goodin.John@epa.gov>; Connors, Sandra <Connors.Sandra@epa.gov>

Subject: FOR REVIEW: second draft of a 100-day list of ag innovation actions

Hi Andrew and Wynne, John and Sandra reported back from OW staff meeting that Radhika said she'd like an ag briefing in one or two weeks. John asked me to stay on point for putting the briefing together.

Ex. 5 Deliberative Process (DP)

Are you OK with me sharing this draft list with the other offices, when I send out the briefing outline, so they can start thinking of items they might include? Thank you,

Tom Wall, Director

Watershed Restoration, Assessment and Protection Division

Office of Wetlands, Oceans and Watersheds

U.S. EPA

Wall.tom@epa.gov

Ex. 6 Personal Privacy (PP)

From: Wall, Tom

Sent: Thursday, February 25, 2021 4:32 PM

To: Sawyers, Andrew <Sawyers.Andrew@epa.gov>; Miller, Wynne <Miller.Wynne@epa.gov>

Cc: Sandra Connors (<Connors.Sandra@epa.gov> <Connors.Sandra@epa.gov>

Subject: FOR REVIEW: first cut at a 100-day list of ag innovation actions

Good afternoon Andrew and Wynne,

Following up on Radhika's direction/invitation during the Ag Innovations stakeholder meeting, I'm pulling together a

Ex. 5 Deliberative Process (DP)

Do these items look OK? Other items you'd like to add?

Tom Wall, Acting Director

Office of Wetlands, Oceans and Watersheds

U.S. EPA

Wall.tom@epa.gov

Ex. 6 Personal Privacy (PP)

Message

From: Bonnelycke, Nina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D2E64702B03740499BBAD90BE2F6C444-NBONNELY]
Sent: 5/18/2017 3:36:53 PM
To: Brennan, Ross [Brennan.Ross@epa.gov]
Subject: RE: Enviro stakeholder meetings with Andrew

Well put!

~~~~~  
*Nina J. Bonnelycke*  
Rural Branch, Water Permits Division  
Office of Wastewater Management  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W., 4203M  
Washington, D.C. 20460  
(202)564-0764

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**From:** Brennan, Ross  
**Sent:** Thursday, May 18, 2017 11:23 AM  
**To:** Utting, George <Utting.George@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Ziobro, Joseph <Ziobro.Joseph@epa.gov>; Ulrich, Emily <ulrich.emily@epa.gov>; Jones, Kristin <jones.kristin@epa.gov>  
**Cc:** Shenk, Kelly <shenk.kelly@epa.gov>  
**Subject:** Enviro stakeholder meetings with Andrew

After yesterday's meeting with FWW on the CAFO rulemaking petition, Deborah pulled a couple of us aside and – consistent with her observations in the FWW meeting – suggested launching a series of enviro meetings with Andrew. Over the past couple of months RB members had participated in a WPD-wide effort to frame up such meetings; my understanding is that the leadership originated here. Deborah suggested that the meetings would involve the national environmental organizations and that they would extend across NPDES. But she seemed particularly interested in starting with CAFOs. Maybe we could chat in our next branch meeting or CAFO team meeting about an approach for such meetings. I don't want RB to get stuck managing this project, just the meetings for CAFOs and animal ag, but it does seem the early energy and thinking originated here and RB could carry some of that momentum through the planning stages. Just a thought – we can catch up further!

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

Message

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**From:** Bonnelycke, Nina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D2E64702B03740499BBAD90BE2F6C444-NBONNELY]  
**Sent:** 5/18/2017 2:30:32 PM  
**To:** Sylvester, Francis [Sylvester.Francis@epa.gov]  
**CC:** Brennan, Ross [Brennan.Ross@epa.gov]; Subramanian, Hema [Subramanian.Hema@epa.gov]; Jones, Kristin [jones.kristin@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Ziobro, Joseph [Ziobro.Joseph@epa.gov]; Utting, George [Utting.George@epa.gov]  
**Subject:** RE: Frank - Rural Branch's weekly update

Frank—small correction so as to forestall any confusion: We actually met with them on Wednesday May 17.

~~~~~  
Nina J. Bonnelycke
Rural Branch, Water Permits Division
Office of Wastewater Management
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W., 4203M
Washington, D.C. 20460
(202)564-0764

From: Sylvester, Francis
Sent: Thursday, May 18, 2017 7:48 AM
To: Utting, George <Utting.George@epa.gov>
Cc: Brennan, Ross <Brennan.Ross@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Jones, Kristin <jones.kristin@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Ziobro, Joseph <Ziobro.Joseph@epa.gov>
Subject: RE: Frank - Rural Branch's weekly update

Thanks

Frank Sylvester
U.S. Environmental Protection Agency
Office of Wastewater Management
Water Permits Division
Phone Number: (202) 564-1279
sylvester.francis@epa.gov

From: Utting, George
Sent: Wednesday, May 17, 2017 5:41 PM
To: Sylvester, Francis <Sylvester.Francis@epa.gov>
Cc: Brennan, Ross <Brennan.Ross@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Jones, Kristin <jones.kristin@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Ziobro, Joseph <Ziobro.Joseph@epa.gov>
Subject: RE: Frank - Rural Branch's weekly update

Frank,

Here's another item for this week (actually a revision of what we sent previously):

On Thursday, May 17, Deborah Nagle and members of the Rural Branch met with representatives of Food & Water Watch and other citizen groups who filed the petition to revise the NPDES CAFO regulations to hear their concerns.

Thanks,
George

George Utting
Water Permits Division (MC-4203M)
U.S. EPA, 1200 Pennsylvania Avenue, NW,
Washington, DC 20460-0001
(202) 564-0744 / Fax (202) 564-6384

From: Brennan, Ross
Sent: Tuesday, May 16, 2017 4:18 PM
To: Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Jones, Kristin <jones.kristin@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Ziobro, Joseph <Ziobro.Joseph@epa.gov>
Cc: Sylvester, Francis <Sylvester.Francis@epa.gov>
Subject: Frank - Rural Branch's weekly update

Thanks!

Ross Brennan
Acting Chief, Rural Branch
EPA Office of Wastewater Management
(202) 564-3248

From: Bonnelycke, Nina
Sent: Tuesday, May 16, 2017 3:02 PM
To: Brennan, Ross <Brennan.Ross@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Jones, Kristin <jones.kristin@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Ziobro, Joseph <Ziobro.Joseph@epa.gov>
Subject: Need your items for the weekly by COB today

Here's what we had last week:

- Meeting on 5/17 with Food & Water Watch, et al. on their CWA petition relating to CAFOs. This session is largely to hear from the petitioners about their concerns as EPA has not made any decisions on how to respond to the petition (CAFO team).
- Held monthly meeting between OW and USDA Natural Resources Conservation Service. At the meeting, OW had the opportunity to meet NRCS's new acting Deputy Chief for Science and Technology, Roylene Rides at the Door. Roylene is on detail from the State of Washington where she serves as the State Conservationist (Rural Branch, OWOW, NRCS).
- Toured 3 beef cattle operations in California and shot footage for the National and California Beef Cattlemen's module for the Animal Agriculture Discussion Group's Ag Education project (Sawyers, Nagle, Subramanian, Kelly Shenk (R3), Kerry Drake (R9), Becky Mitschele (R9)).

Nina J. Bonnelycke
Rural Branch, Water Permits Division
Office of Wastewater Management
U.S. Environmental Protection Agency

1200 Pennsylvania Ave., N.W., 4203M
Washington, D.C. 20460
(202)564-0764

Message

From: Molloy, Jennifer [molloy.jennifer@epa.gov]
Sent: 10/4/2017 11:57:52 AM
To: Subramanian, Hema [Subramanian.Hema@epa.gov]; Bonnelycke, Nina [Bonnelycke.Nina@epa.gov]; Brennan, Ross [Brennan.Ross@epa.gov]
CC: Chan, Jennifer [Chan.Jennifer@epa.gov]; Chumble, Prasad [Chumble.Prasad@epa.gov]; Jones, Kristin [jones.kristin@epa.gov]; Mcmorrow, Karly [mcmorrow.karly@epa.gov]; Utting, George [Utting.George@epa.gov]; Ziobro, Joseph [Ziobro.Joseph@epa.gov]
Subject: RE: Action Required---Need your input for WPD's 2017 PARS

My suggestions are in blue

Jenny Molloy
U.S. EPA
Water Permits Division
202.564.1939
molloy.jennifer@epa.gov

From: Subramanian, Hema
Sent: Tuesday, October 03, 2017 2:12 PM
To: Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>; Brennan, Ross <Brennan.Ross@epa.gov>
Cc: Chan, Jennifer <Chan.Jennifer@epa.gov>; Chumble, Prasad <Chumble.Prasad@epa.gov>; Jones, Kristin <jones.kristin@epa.gov>; Mcmorrow, Karly <mcmorrow.karly@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Ziobro, Joseph <Ziobro.Joseph@epa.gov>
Subject: RE: Action Required---Need your input for WPD's 2017 PARS

My contributions are below in purple.

From: Bonnelycke, Nina
Sent: Tuesday, October 03, 2017 1:29 PM
To: Brennan, Ross <Brennan.Ross@epa.gov>
Cc: Chan, Jennifer <Chan.Jennifer@epa.gov>; Chumble, Prasad <Chumble.Prasad@epa.gov>; Jones, Kristin <jones.kristin@epa.gov>; Mcmorrow, Karly <mcmorrow.karly@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Utting, George <Utting.George@epa.gov>; Ziobro, Joseph <Ziobro.Joseph@epa.gov>
Subject: RE: Action Required---Need your input for WPD's 2017 PARS

I put some ideas in green below.

~~~~~  
*Nina J. Bonnelycke*  
Water Permits Division  
Office of Wastewater Management  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W., 4203M  
Washington, D.C. 20460  
(202)564-0764

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**From:** Brennan, Ross  
**Sent:** Tuesday, October 03, 2017 10:27 AM  
**To:** Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>; Chan, Jennifer <Chan.Jennifer@epa.gov>; Chumble, Prasad

<Chumble.Prasad@epa.gov>; Jones, Kristin <jones.kristin@epa.gov>; Mcmorrow, Karly <mcmorrow.karly@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Utting, George <Utting.George@epa.gov>; Ziobro, Joseph <Ziobro.Joseph@epa.gov>  
**Subject:** FW: Action Required---Need your input for WPD's 2017 PARS

## Ex. 5 Deliberative Process (DP)

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Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Nagle, Deborah  
**Sent:** Sunday, October 01, 2017 10:39 AM  
**To:** Frazer, Brian <Frazer.Brian@epa.gov>; Kloss, Christopher <Kloss.Christopher@epa.gov>; Brennan, Ross <Brennan.Ross@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>; Simbanin, Cynthia <Simbanin.Cynthia@epa.gov>  
**Cc:** Urban, Rachel <Urban.Rachel@epa.gov>  
**Subject:** Action Required---Need your input for 2017 PARS

Hi Team (Not that I can direct you anymore, but I do need your help)

## Ex. 5 Deliberative Process (DP)

# **Ex. 5 Deliberative Process (DP)**

## **Ex. 5 Deliberative Process (DP)**

add the fact that we're having discussions with environmental groups regarding their CAFO petition.

## **Ex. 5 Deliberative Process (DP)**

# Ex. 5 Deliberative Process (DP)

Thanks  
Deborah

Deborah G. Nagle, Acting Director  
Office of Science and Technology  
1200 Pennsylvania Ave, NW  
Washington, DC 20460

Tel: (202) 564-1185



Message

---

**From:** Brennan, Ross [Brennan.Ross@epa.gov]  
**Sent:** 5/15/2017 3:00:44 PM  
**To:** Utting, George [Utting.George@epa.gov]; Nagle, Deborah [Nagle.Deborah@epa.gov]  
**CC:** Molloy, Jennifer [molloy.jennifer@epa.gov]; Bonnelycke, Nina [Bonnelycke.Nina@epa.gov]; Magruder, DeMara [Magruder.Demara@epa.gov]  
**Subject:** RE: Meeting with Food & Water Watch Petitioners

Looks like Rob, Paul, and Jan might already be on the invite. But we should invite Simma and Mary Ellen

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Utting, George  
**Sent:** Monday, May 15, 2017 10:55 AM  
**To:** Nagle, Deborah <Nagle.Deborah@epa.gov>  
**Cc:** Brennan, Ross <Brennan.Ross@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>; Magruder, DeMara <Magruder.Demara@epa.gov>  
**Subject:** Meeting with Food & Water Watch Petitioners

Hi Deborah,

In looking over the meeting schedule for the week, I observed that neither OGC nor OST are included in the meeting with the petitioners. I think it's a good idea to include OGC because they have an interest in these petitions and can help us with our response.

I also think we should include OST/EAD. Much of the petition raises ELG issues (as well as definitions that we copied into our regs) and there is considerable interplay on land application and other requirements, as well. As you know, we promulgated these regs jointly with OST, and so it makes sense to include them from that perspective, as well. I suggest including Rob Wood, Jan Goodwin, and Paul Shriner on the invite.

GU

George Utting  
Water Permits Division (MC-4203M)  
U.S. EPA, 1200 Pennsylvania Avenue, NW,  
Washington, DC 20460-0001  
(202) 564-0744 / Fax (202) 564-6384

---

**From:** Nagle, Deborah  
**Sent:** Wednesday, March 08, 2017 5:37 PM  
**To:** Utting, George <Utting.George@epa.gov>  
**Subject:** Fwd: Food & Water Watch et al petition

Jenny has the petition. See below

Sent from my iPhone

Begin forwarded message:

**From:** "Levine, MaryEllen" <[levine.maryellen@epa.gov](mailto:levine.maryellen@epa.gov)>  
**To:** "Wood, Robert" <[Wood.Robert@epa.gov](mailto:Wood.Robert@epa.gov)>  
**Cc:** "Nagle, Deborah" <[Nagle.Deborah@epa.gov](mailto:Nagle.Deborah@epa.gov)>, "Witt, Richard" <[Witt.Richard@epa.gov](mailto:Witt.Richard@epa.gov)>, "Shriner, Paul" <[Shriner.Paul@epa.gov](mailto:Shriner.Paul@epa.gov)>  
**Subject:** FW: Food & Water Watch et al petition

OWM has this but it in part asks us to revise the CAFO ELGs

- Mary Ellen

Mary Ellen Levine  
Assistant General Counsel  
Water Law Office, Office of General Counsel  
7510 C WJC North  
(202) 564-5487

From: Kupchan, Simma  
Sent: Wednesday, March 08, 2017 5:06 PM  
To: Levine, MaryEllen <[levine.maryellen@epa.gov](mailto:levine.maryellen@epa.gov)>; Neugeboren, Steven <[Neugeboren.Steven@epa.gov](mailto:Neugeboren.Steven@epa.gov)>  
Subject: FW: Food & Water Watch et al petition

FYI – petition to revise the CAFO regulations.

Simma Kupchan  
Water Law Office  
US EPA Office of General Counsel  
William Jefferson Clinton Building North Room 7426Q  
(p) 202-564-3105

From: Bonnelycke, Nina  
Sent: Wednesday, March 08, 2017 5:02 PM  
To: Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)<<mailto:Kupchan.Simma@epa.gov>>>  
Cc: Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)<<mailto:molloy.jennifer@epa.gov>>>; Abrams, Nancy <[Abrams.Nancy@epa.gov](mailto:Abrams.Nancy@epa.gov)<<mailto:Abrams.Nancy@epa.gov>>>  
Subject: Fw: Food & Water Watch et al petition

Just in case you haven't seen this yet.

~~~~~

Nina J. Bonnelycke

Rural Branch, Water Permits Division

Office of Wastewater Management
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W., 4203M
Washington, D.C. 20460
(202)564-0764

From: Molloy, Jennifer
Sent: Wednesday, March 8, 2017 4:52 PM
To: Abrams, Nancy; Bonnelycke, Nina; Jones, Kristin; Subramanian, Hema; Utting, George; Ziobro, Joseph
Subject: Food & Water Watch et al petition

I haven't read it carefully, but I scanned it. It's interesting and also frustrating.

Jenny Molloy

U.S. EPA

Water Permits Division

202.564.1939

molloy.jennifer@epa.gov<<mailto:molloy.jennifer@epa.gov>>

Message

From: Brennan, Ross [Brennan.Ross@epa.gov]
Sent: 5/31/2018 2:31:24 PM
To: Utting, George [Utting.George@epa.gov]; Bonnelycke, Nina [Bonnelycke.Nina@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Ziobro, Joseph [Ziobro.Joseph@epa.gov]; Jones, Kristin [jones.kristin@epa.gov]; Buterbaugh, Kristin [Buterbaugh.Kristin@epa.gov]; Greenwald, Kathryn [Greenwald.Kathryn@epa.gov]
Subject: CAFolks - Follow-up document from FWW meeting
Attachments: 180415 Follow-up Info for EPA.docx

Folks,

I didn't realize Krissy's April 30 email, below, contained this attachment. My apologies. I have not yet reviewed it but I wanted to pass it along and ask you whether it warrants discussion.

Krissy and I haven't talked since she sent this email. I'll send her a quick note early next week thanking her for the attachment – let me know whether you think it warrants a small group discussion with her and Tarah.

Ross Brennan
Acting Chief, Rural Branch
EPA Office of Wastewater Management
(202) 564-3248

From: Krissy Kasserman [mailto:kkasserman@fwwatch.org]
Sent: Monday, April 30, 2018 2:30 PM
To: Brennan, Ross <Brennan.Ross@epa.gov>
Cc: Tarah Heinzen <theinzen@fwwatch.org>
Subject: Follow-up from Feb. meeting

Hi Ross,

I apologize for the significant delay in providing these follow-up materials from our call in late February. Tarah Heinzen and I would like to submit the attached materials as promised on our last call and also in support of our petition for rulemaking. If you or anyone at EPA would like to further discuss any issues raised by the documents perhaps this could be the subject for our next call? Otherwise we are happy to propose additional topics for discussion, and thanks again for your willingness to continue this important dialogue. What do you think about reconvening sometime in the second half of June? Please let Tarah or me know what you think and if you have any questions regarding the attached. Thanks, and have a great day!

Best,

Krissy

Krissy Kasserman
National Factory Farm Campaigner
Food & Water Watch and Food & Water Action
O (919) 794-6381

Ex. 6 Personal Privacy (PP)

kkasserman@fwwatch.org

Tarah Heinzen

Staff Attorney

Food & Water Watch and Food & Water Action

O (202) 683-2457

Ex. 6 Personal Privacy (PP)

theinzen@fwwatch.org

**Submitted in support of pending Food & Water Watch et al.
PETITION TO REVISE THE CLEAN WATER ACT REGULATIONS FOR
CONCENTRATED ANIMAL FEEDING OPERATIONS,
submitted March 8, 2017**

Contact:

Tarah Heinzen

Staff Attorney

Food & Water Watch

(202) 683-2457

theinzen@fwwatch.org

Krissy Kasserman

National Factory Farm Campaigner

Food & Water Watch

(919) 794-6381

kkasserman@fwwatch.org

Information submitted in response to February 27, 2018 meeting between EPA and petitioners.

Threats to State Programs

In the past EPA has agreed that integrators meet the Clean Water Act definition of an operator. Integrators are increasingly exercising control of where CAFOs are located and how they manage their waste, etc., and yet at this time not a single state is co-permitting its integrators. On our recent call we discussed several states that are actually weakening their permitting regime for CAFOs including a bill in Tennessee that eliminating the need for CAFOs not managing liquid manure to get permits. We also discussed unregulated poultry waste in North Carolina and a potential transfer of CAFO permitting to the agricultural agency in Wisconsin.

- Tennessee: A law passed in 2018 repeals the provisions of Chapter 293 of the Public Acts of 2017 in order to eliminate the Department of Environment and Conservation's concentrated animal feeding operations (CAFO) operating permit program as of March 1, 2018; makes permit mandatory for certain animal feeding operations that use a liquid waste management system and optional for other animal feeding operations; and makes other revisions. - Amends TCA Title 69, Chapter 3, Part 1 and Chapter 293 of the Public Acts of 2017 (visit [[HYPERLINK "http://wapp.capitol.tn.gov/apps/Billinfo/default.aspx?BillNumber=HB2317&ga=110"](http://wapp.capitol.tn.gov/apps/Billinfo/default.aspx?BillNumber=HB2317&ga=110)] and click on "summary" for more information).
- North Carolina: Does not require permits for poultry operations.

- [HYPERLINK "<https://www.northcarolinahealthnews.org/2017/03/09/poultry-manure-outweighs-hog-waste-report-finds/>" \h]
- Wisconsin: Considering transferring permitting authority from the Department of Natural Resources to the Department of Agriculture, Trade and Consumer Protection.
 - Oct. 27, 2017 [HYPERLINK "<https://www.wispolitics.com/2017/walker-seeks-to-shift-cafo-oversight-from-dnr-to-datcp/>" \h]
 - Feb. 10, 2017 [HYPERLINK "<https://www.jsonline.com/story/news/politics/2017/02/10/lobbyists-large-farms-met-gov-scott-walkers-staff-before-he-announced-possible-shift-ag-oversight/97704176/>" \h]

Recent CAFO Spills and Water Quality Impacts

We discussed the impact excessive concentration (and related application of manure on limited amounts of land) has on water quality. Ground application of untreated animal waste can and does contribute to excessive nutrient loading, contamination of drinking water, excessive algal growth, a decrease in dissolved oxygen in surface waters, and contamination of surface and groundwater. Nitrogen, phosphorus, pesticide, heavy metals (copper and zinc), antibiotics and hormones are all problematic. Nitrates are a very significant drinking water contaminant and cause significant health impacts in humans, particularly pregnant women and infants. We provide information on the impacts factory farms in high concentration have on water quality below.

North Carolina

- October 16, 2017 [HYPERLINK "https://www.washingtonpost.com/news/capital-weather-gang/wp/2016/10/16/factory-farming-practices-are-under-scrutiny-again-in-n-c-after-disastrous-hurricane-floods/?utm_term=.d34c013bbf94" \h]
- Feb 15, 2018 [HYPERLINK "<http://www.ncpolicywatch.com/2018/02/15/12-years-negligence-1-million-gallons-manure-64000-fine-jones-county-hog-farm-business-now/>" \h]

Illinois

- August 5, 2016 [HYPERLINK "<http://www.chicagotribune.com/news/watchdog/pork/ct-pig-farms-pollution-met-20160802-story.html>" \h]

Wisconsin

- [HYPERLINK "http://midwestadvocates.org/assets/resources/Safe%20Drinking%20Water%20Act%20Petition/2014-10-22_Kewaunee_SDWA_Petition_to_EPA.pdf" \h]: Good analysis of how excess concentration impacts water quality
- August 25, 2017 [HYPERLINK "<https://www.wpr.org/dnr-waiting-report-determine-severity-northeastern-manure-spill>" \h]

- February 9, 2016 [[HYPERLINK](http://host.madison.com/wsj/news/local/environment/mile-long-manure-spill-reaches-trout-stream-in-grant-county/article_54b730b7-2148-5210-b4cc-c4890f6ea888.html) "http://host.madison.com/wsj/news/local/environment/mile-long-manure-spill-reaches-trout-stream-in-grant-county/article_54b730b7-2148-5210-b4cc-c4890f6ea888.html" \h]
- Oct 11, 2017 [[HYPERLINK](http://www.swnews4u.com/archives/36151/) "http://www.swnews4u.com/archives/36151/" \h]
- March 16, 2017 [[HYPERLINK](http://www.wbay.com/content/news/DNR-monitoring-water-quality-after-100000-gallon-manure-spill-in-Brown-County-416352773.html) "http://www.wbay.com/content/news/DNR-monitoring-water-quality-after-100000-gallon-manure-spill-in-Brown-County-416352773.html" \h]
- Dec 5, 2013 [[HYPERLINK](http://archive.jsonline.com/news/wisconsin/manure-spills-in-2013-the-highest-in-seven-years-statewide-b99157574z1-234701931.html) "http://archive.jsonline.com/news/wisconsin/manure-spills-in-2013-the-highest-in-seven-years-statewide-b99157574z1-234701931.html" \h]
- Feb 6, 2015 [[HYPERLINK](https://www.greenbaypressgazette.com/story/news/investigations/2015/02/06/manure-spills-water-supply/22983669/) "https://www.greenbaypressgazette.com/story/news/investigations/2015/02/06/manure-spills-water-supply/22983669/" \h]
- August 10, 2017 [[HYPERLINK](https://www.wpr.org/dnr-investigating-manure-spill-northeastern-wisconsin) "https://www.wpr.org/dnr-investigating-manure-spill-northeastern-wisconsin" \h]
- April 12, 2017 [[HYPERLINK](https://www.wisfarmer.com/story/news/2017/04/12/dnr-investigating-manure-spill-st-croix-county/100372550/) "https://www.wisfarmer.com/story/news/2017/04/12/dnr-investigating-manure-spill-st-croix-county/100372550/" \h]
- Dec 29, 2017 [[HYPERLINK](http://www.newrichmond-news.com/news/4378107-year-review-emerald-sky-dairy-manure-spill) "http://www.newrichmond-news.com/news/4378107-year-review-emerald-sky-dairy-manure-spill" \h]
- Dec 27, 2017 [[HYPERLINK](http://www.swnews4u.com/archives/36753/) "http://www.swnews4u.com/archives/36753/" \h]
- January 17, 2018 [[HYPERLINK](http://www.swnews4u.com/archives/36924/) "http://www.swnews4u.com/archives/36924/" \h]

Iowa

- [[HYPERLINK](http://www.iowadnr.gov/Portals/idnr/uploads/afo/manuredischargchart.pdf) "http://www.iowadnr.gov/Portals/idnr/uploads/afo/manuredischargchart.pdf" \h]

Oregon

- March 22, 2016 10 [[HYPERLINK](https://www.statesmanjournal.com/story/tech/science/environment/2016/03/22/10-oregon-farms-and-ranches-fined-permit-violations/82135846/) "https://www.statesmanjournal.com/story/tech/science/environment/2016/03/22/10-oregon-farms-and-ranches-fined-permit-violations/82135846/" \h]
- April 18, 2017 [[HYPERLINK](https://www.tillamookheadlightherald.com/news/major-dairy-waste-spill-slams-tillamook-river/article_17845d02-2475-11e7-9ca2-ab4ce8f43168.html) "https://www.tillamookheadlightherald.com/news/major-dairy-waste-spill-slams-tillamook-river/article_17845d02-2475-11e7-9ca2-ab4ce8f43168.html" \h]
- March 1, 2018 [[HYPERLINK](https://www.opb.org/news/article/oregon-sues-mega-dairy-manure-spills/) "https://www.opb.org/news/article/oregon-sues-mega-dairy-manure-spills/" \h]
- April 12, 2018 [[HYPERLINK](https://www.statesmanjournal.com/story/tech/science/environment/2018/04/12/manure-spills-continue-oregons-second-largest-dairy/512280002/) "https://www.statesmanjournal.com/story/tech/science/environment/2018/04/12/manure-spills-continue-oregons-second-largest-dairy/512280002/" \h]

Vermont

- Dec 15, 2017 [[HYPERLINK](http://digital.vpr.net/post/when-farm-runoff-threatens-well-water-states-response-lacking) "http://digital.vpr.net/post/when-farm-runoff-threatens-well-water-states-response-lacking" \l "stream/0" \h]

CAFO Program Activities
May 2018

Regional/State/Tribal Technical Assistance:

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-
-
-

Ex. 5 Deliberative Process (DP)

State Authorizations and Withdrawal Petitions Assistance:

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-
-
-

Ex. 5 Deliberative Process (DP)

Regulatory Revision Requests:

- Food and Water Watch et al, Petition to Revise the Clean Water Act Regulations for Concentrated Animal Feeding Operations, March 2017.
-

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-

Ex. 5 Deliberative Process (DP)

CAFO Permitting Program Support:

-
-

Ex. 5 Deliberative Process (DP)

Litigation:

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-
-

Ex. 5 Deliberative Process (DP)

e-Reporting Rule Roll-Out:

- EPA's 2015 e-reporting rule requires permitted CAFOs to submit annual report data electronically starting December 21, 2020.

CAFO Program Activities
May 2018

Regional/State/Tribal Technical Assistance:

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Ex. 5 Deliberative Process (DP)

EPA CAFO Permit Development:

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Ex. 5 Deliberative Process (DP)

State Authorization Assistance:

-

Ex. 5 Deliberative Process (DP)

Litigation:

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Ex. 5 Deliberative Process (DP)

Petition:

- Food and Water Watch et al, Petition to Revise the Clean Water Act Regulations for Concentrated Animal Feeding Operations, March 2017.

EPA 2017 Regulatory Reform Docket:

-
-

Ex. 5 Deliberative Process (DP)

Message

From: Molloy, Jennifer [molloy.jennifer@epa.gov]
Sent: 5/29/2018 4:53:54 PM
To: Bonnelycke, Nina [Bonnelycke.Nina@epa.gov]; Ziobro, Joseph [Ziobro.Joseph@epa.gov]; Jones, Kristin [jones.kristin@epa.gov]; Utting, George [Utting.George@epa.gov]; Brennan, Ross [Brennan.Ross@epa.gov]
Subject: Sally CAFO activities briefing - for discussion at 2
Attachments: CAFO program briefing May 2018.docx

I just started a list. It's in no particular order, with no particular format, and no particular priorities attached. Just a starting point for discussion. We can strike a bunch of this stuff, add other things, etc.

Jenny Molloy
U.S. EPA
Water Permits Division
202.564.1939
molloy.jennifer@epa.gov

CAFO Program Activities
May 2018

Regional/State/Tribal Technical Assistance:

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Ex. 5 Deliberative Process (DP)

CAFO Permit Development Assistance:

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Ex. 5 Deliberative Process (DP)

State Authorization Assistance:

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Ex. 5 Deliberative Process (DP)

Litigation:

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-

Ex. 5 Deliberative Process (DP)

Petition:

- Food and Water Watch et al, Petition to Revise the Clean Water Act Regulations for Concentrated Animal Feeding Operations, March 2017.

To: Galloway, Carol[Galloway.Carol@epa.gov]; Adams, Margery[adams.margery@epa.gov]; Arvizu, Christy[Arvizu.Christy@epa.gov]; Atkinson, Benjamin[atkinson.ben@epa.gov]; Bahr, Ryan[bahr.ryan@epa.gov]; Blanco-Gonzalez, Joel[Blanco-Gonzalez.Joel@epa.gov]; Boisclair, Diane[boisclair.diane@epa.gov]; Bonnelycke, Nina[Bonnelycke.Nina@epa.gov]; Breedlove, Dan[Breedlove.Dan@epa.gov]; Bukhari, Samir[Bukhari.Samir@epa.gov]; Burdett, Cheryl[burdett.cheryl@epa.gov]; Bush, William[Bush.William@epa.gov]; Campbell, Gwen[Campbell.Gwen@epa.gov]; Chang-Vaughan, Ellen[Chang-Vaughan.Ellen@epa.gov]; Chase, Felicia[chase.felicia@epa.gov]; Coats, Andrea[Coats.Andrea@epa.gov]; Cozad, David[Cozad.David@epa.gov]; Dart, Denny[Dart.Denny@epa.gov]; Davies, Lauris[Davies.Lauris@epa.gov]; Drelich, David[Drelich.David@epa.gov]; Duchovnay, Andrew[Duchovnay.Andrew@epa.gov]; Gable, Kelly[Gable.Kelly@epa.gov]; Greenberg, Ken[Greenberg.Ken@epa.gov]; Greenwald, Kathryn[Greenwald.Kathryn@epa.gov]; Hamera, Donald[Hamera.Don@epa.gov]; Heinemann, Kristina[Heinemann.Kristina@epa.gov]; Herbert, Rusty[Herbert.Rusty@epa.gov]; Hom, Michael[Hom.Michael@epa.gov]; Huffman, Diane[Huffman.Diane@epa.gov]; Jackson, Julia[Jackson.Julia@epa.gov]; Jann, Stephen[jann.stephen@epa.gov]; Joe, Don[Joe.Don@epa.gov]; Schefski, Melissa[Schefski.Melissa@epa.gov]; Kenknight, Jeff[Kenknight.Jeff@epa.gov]; Kermish, Laurie[Kermish.Laurie@epa.gov]; Kroening, Peg[Kroening.Margaret@epa.gov]; Kuefler, Patrick[kuefler.patrick@epa.gov]; Kupchan, Simma[Kupchan.Simma@epa.gov]; Kwok, Rose[Kwok.Rose@epa.gov]; Lane, Willie[Lane.Willie@epa.gov]; Lister, Chris[Lister.Chris@epa.gov]; Livingston, Peggy[Livingston.Peggy@epa.gov]; Lopez, Jaime[Lopez.Jaime@epa.gov]; Lukowich, Michael[lukowich.michael@epa.gov]; Massey, Michael[Massey.Michael@epa.gov]; McDonald, Scott[mcdonald.scott@epa.gov]; Mikalian, Charles[mikalian.charles@epa.gov]; Mitschele, Becky[Mitschele.Becky@epa.gov]; Modigliani, Justine[Modigliani.Justine@epa.gov]; Moody, Jonathan[moody.jonathan@epa.gov]; Moores, Steven[Moores.Steven@epa.gov]; Morgan, James[Morgan.James@epa.gov]; Mortensen, Ginah[mortensen.ginah@epa.gov]; Ogle, Kimberly[Ogle.Kimberly@epa.gov]; Oviedo, Luis[oviedo.luis@epa.gov]; Peak, Nicholas[Peak.Nicholas@epa.gov]; Plymale, Chris[Plymale.Christopher@epa.gov]; Pollard, Stephen[Pollard.Stephen@epa.gov]; Porter, Donna[Porter.Donna@epa.gov]; Potokar, Steven[Potokar.Steven@epa.gov]; Rogers, Joan[rogers.joan@epa.gov]; Sampath, Sam[Sampath.Sam@epa.gov]; Schwer, Don[Schwer.Don@epa.gov]; Segall, Martha[Segall.Marta@epa.gov]; Senkayi, Abu[Senkayi.Abu@epa.gov]; Silver, Wendy[Silver.Wendy@epa.gov]; Sipe, Diane[Sipe.Diane@epa.gov]; Socha, Julianne[socha.julianne@epa.gov]; Stokely, Peter[Stokely.Peter@epa.gov]; Sullivan, Tim[Sullivan.Tim@epa.gov]; Sutin, Elyana[Sutin.Elyana@epa.gov]; Theis, Joseph[Theis.Joseph@epa.gov]; Thomas, Lee[Thomas.Lee@epa.gov]; Thompson, Robert[thompson.robert@epa.gov]; Thuot, Lisa[Thuot.Lisa@epa.gov]; Tipton, Lantz[tipton.lantz@epa.gov]; Urban, Trevor[Urban.Trevor@epa.gov]; Utting, George[Utting.George@epa.gov]; Vanlerberghe, Daren[Vanlerberghe.Daren@epa.gov]; VanTil, Barbara[vantil.barbara@epa.gov]; Vuilleumier, Kevin[vuilleumier.kevin@epa.gov]; Weiler, Eaton[weiler.eaton@epa.gov]; Whitson, Amelia[Whitson.Amelia@epa.gov]; Williams, Nancy[Williams.Nancy@epa.gov]; Wills, Carl[Wills.Carl@epa.gov]; Witt, Richard[Witt.Richard@epa.gov]; Zolandz, Mark[Zolandz.Mark@epa.gov]; Boeglin, Michael[Boeglin.Michael@epa.gov]; Vezner, Kris[vezner.kris@epa.gov]; Ibarra, Juan[Ibarra.Juan@epa.gov]; Draper, Seth[Draper.Seth@epa.gov]; Anderson, Kate[Anderson.Kate@epa.gov]; Wetherington, Michele[Wetherington.Michele@epa.gov]; Savino, Kathleen[Savino.Kathleen@epa.gov]; Chan, Janice[Chan.Janice@epa.gov]; Goldstein, Jessica[goldstein.jessica@epa.gov]; Cooper, WilliamF[Cooper.WilliamF@epa.gov]; Quigley, Heather[Quigley.Heather@epa.gov]; Mills, Clarissa[mills.clarissa@epa.gov]; Rise, David[rise.david@epa.gov]; Saporita, Chris[Saporita.Chris@epa.gov]; Smith, Brittany[Smith.Brittany@epa.gov]; Arcaya, Alyssa[arcaya.alyssa@epa.gov]; Buterbaugh, Kristin[Buterbaugh.Kristin@epa.gov]; Nagrani, Kavita[Nagrani.Kavita@epa.gov]; Nguyen, Quoc[Nguyen.Quoc@epa.gov]

Cc: Ordonez, Efren[Ordonez.Efren@epa.gov]; Henson, Tucker[Henson.Tucker@epa.gov]; Murdock, Russell[Murdock.Russell@epa.gov]; Campbell, Rich[Campbell.Rich@epa.gov]; Subramanian, Hema[Subramanian.Hema@epa.gov]; Ziobro, Joseph[Ziobro.Joseph@epa.gov]; Gholson, Greg[Gholson.Greg@epa.gov]; Bandrowicz, Toni[bandrowicz.toni@epa.gov]; Grubb, Christopher[Grubb.Christopher@epa.gov]; Roberts, Connie[Roberts.Connie@epa.gov]; Jones, Kristin[jones.kristin@epa.gov]; Hodaj, Andi[hodaj.andi@epa.gov]; Kostek, Daniel[kostek.daniel@epa.gov]; Johnston, Carey[Johnston.Carey@epa.gov]; Yourish, Jesse[yourish.jesse@epa.gov]; Gioffre, Patricia[Gioffre.Patricia@epa.gov]; Nina Bonnelycke[nbonnelycke@msn.com]; Clark, Amy[Clark.Amy@epa.gov]; Juarez, Paul[Juarez.Paul@epa.gov]; Smith, DavidW[Smith.DavidW@epa.gov]; O'Lone, Dan[Olone.Dan@epa.gov]; Armor, Suzanne[Armor.Suzanne@epa.gov]; Spejewski, Andrew[Spejewski.Andrew@epa.gov]; Howard, MarkW[Howard.MarkW@epa.gov]; Tinger, John[Tinger.John@epa.gov]; Colletti, John[colletti.john@epa.gov]; Hamilton, Denise[Hamilton.Denise@epa.gov]; Houlihan, Damien[houlihan.damien@epa.gov]; Rosenberg, Alex[Rosenberg.Alex@epa.gov]; Abrams, Nancy[Abrams.Nancy@epa.gov]; Brennan, Ross[Brennan.Ross@epa.gov]; Cunningham, Caitlin[cunningham.caitlin@epa.gov]; WEISS, MICHAEL[weiss.michael@epa.gov]; Perez, Daniel[Perez.Daniel@epa.gov]; Hayes, Mark[hayes.mark@epa.gov]

From: Molloy, Jennifer[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D58B88880EC245048A8B17A62EB915FA-MOLLOY, JENNIFER]

Sent: Tue 10/17/2017 12:11:29 PM (UTC)

Subject: Food & Water Watch et al CAFO petition
[citizens_cafo_cwa_petition.pdf](#)

Per our discussion on the call last week, I said I'd send this around.

Jenny Molloy
U.S. EPA
Water Permits Division
202.564.1939
molloy.jennifer@epa.gov

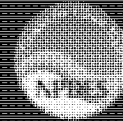
ED_005712_00002177-00001

NPDES Animal Agriculture Activities



Water Permits Division

Briefing for Lee Forsgren
Deputy Assistant Administrator
Office of Water
August 31, 2017



Briefing Outline



Regulatory responsibilities
under CWA and NPDES



Background information

- Industry Practices
- Water Quality Impacts



Implementation support



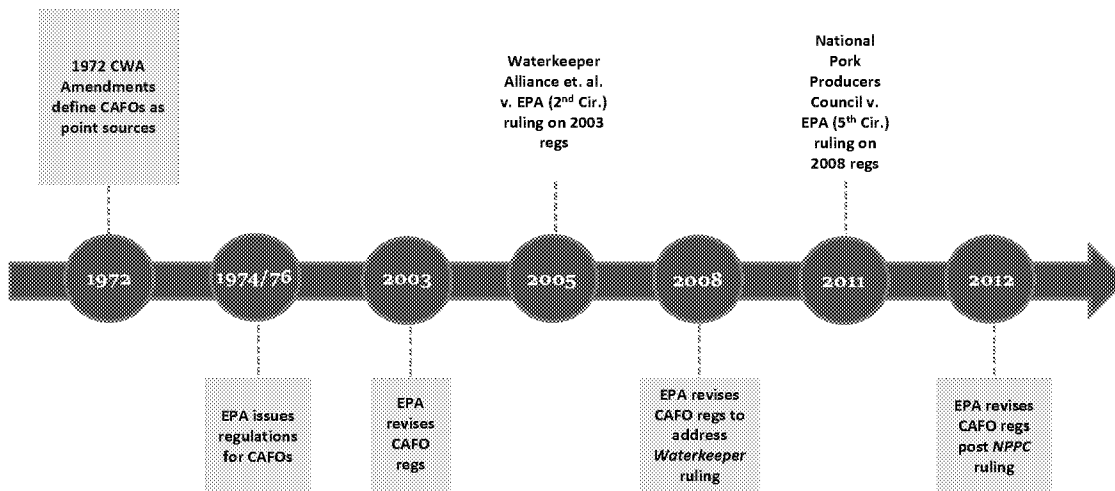
Collaborative activities with
animal ag stakeholders





Regulatory Milestones for CAFOs

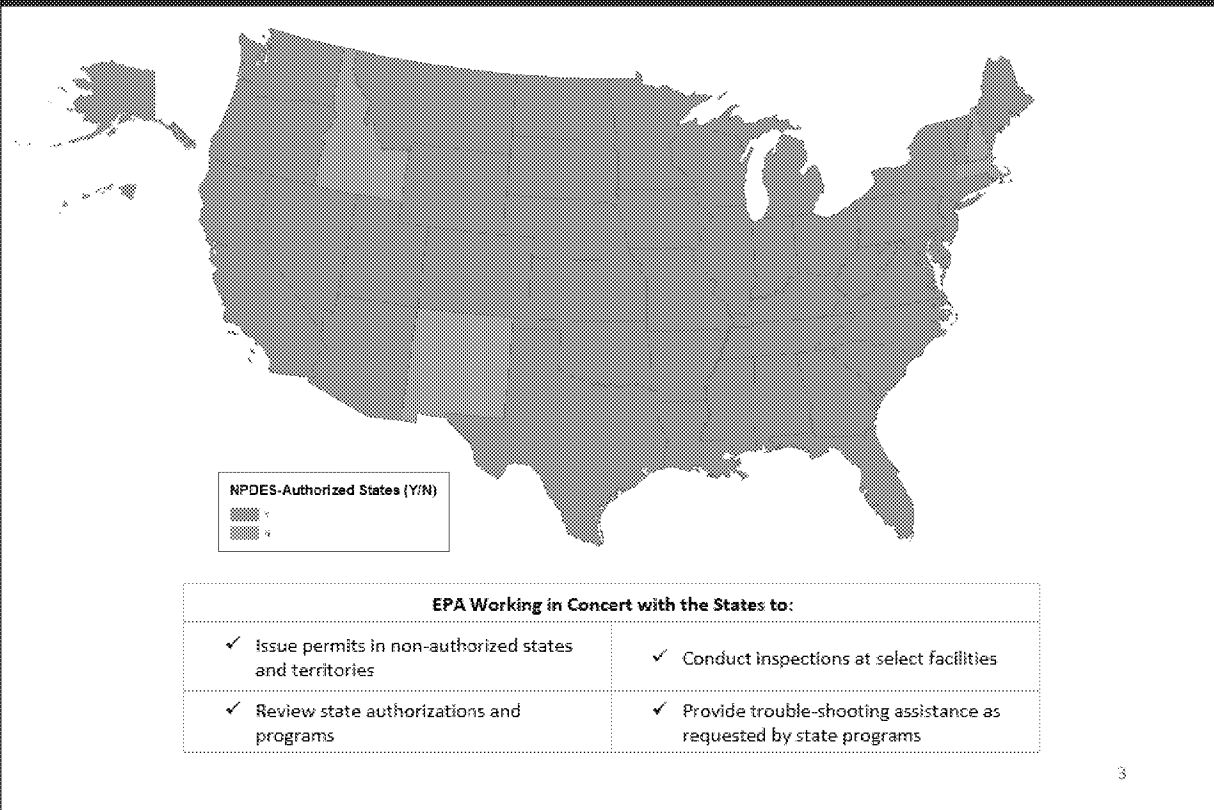
1972 Amendments to Federal Water Pollution Control Act – “Clean Water Act” – define CAFOs as point sources of pollution subject to regulation.



3/8/2017: EPA received petition from Food & Water Watch and 33 other organizations to revise CAFO regulations to address implementation challenges.



Supporting State CAFO Programs



EPA implements in MA, NH, NM, and ID, as well as territories other than VI



What is an AFO/CAFO?

- AFOs are agricultural operations where animals are kept and raised in confined situations
 - Animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and
 - Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

- CAFOs:

- Large CAFOs based on size alone
- Small and medium operations may also be CAFOs based on size and other conditions

Animal Sector	Size thresholds (number of animals)	
	Large CAFOs	Medium CAFOs
Beef	1,000 or more	300 - 999
Dairy	700 or more	200 - 699
Swine (>55lbs.)	2,500 or more	750 - 2,499
Layers	82,000 or more	25,000 - 81,199
Broilers	125,000 or more	37,500 - 124,499

4

(~25%) Percentage of CAFOs that don't discharge. Medium Operations: must have discharges through man-made conveyances or have animals in contact with WOUS.

Small Operations: may be designated for permit coverage if demonstrated to be significant contributors of pollution



Important Considerations

- CAFOs must have NPDES permit coverage if they discharge pollutants into waters of the U.S.
- Ag Stormwater Exemption for precipitation-related discharges:
 - where manure, litter, or process wastewater is land-applied in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients.

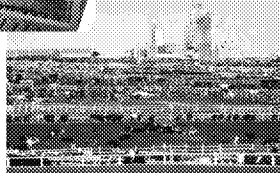
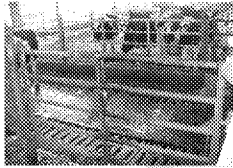
5

Ex. 5 Deliberative Process (DP)

5



CAFOs: Regulatory Requirements

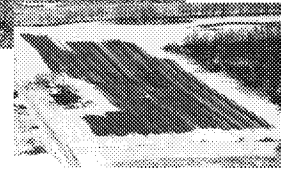


Production area - animal confinement area, manure storage area, raw materials storage area, and waste containment areas:

- NPDES permits authorize certain discharges (e.g., 25-year 24-hour design storm)

Land application area - where manure is applied:

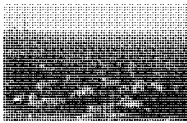
- Must land-apply manure in accordance with terms of nutrient management plan (NMP)





Animal Agriculture in the U.S.

- Farmers and ranchers depend on productive agriculture and clean water for their livelihoods.
- Most livestock grown for meat and eggs raised at very large farms referred to as concentrated animal feeding operations (CAFOs).
- Industry trend toward consolidation, concentration of animals in certain geographic regions.
- Large volumes of manure are generated; sometimes there's a need to transfer manure off-farm for use.



Beef



Swine



Dairy cows



Broilers

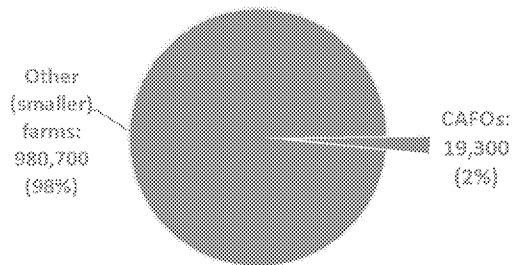


Egg layers

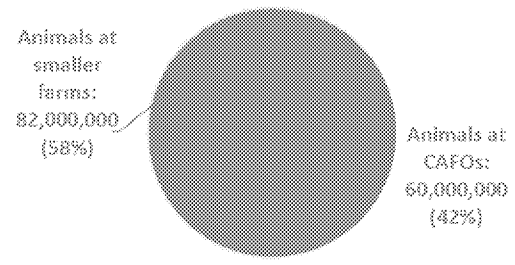


Livestock Concentration

U.S. Livestock Farms and CAFOs



Animals at CAFOs



Data Source: USDA 2012 Census of Agriculture

Total Livestock Farms: ~1 million

Note: Figure excludes beef operations that do not meet USDA's definition of an operation with "cattle on feed"

Total estimated animals
in inventory @ U.S. farms: 142,000,000

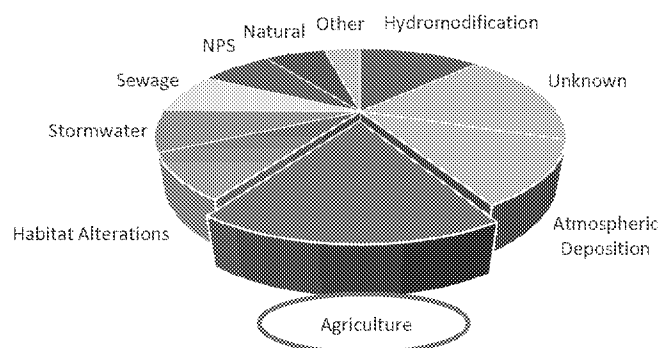


Water Quality Drivers

- Nutrients and pathogens from animal agriculture often contribute to water quality impairments, algal blooms, fish kills, and other impacts.
- Agriculture (animal and crop) is considered a major source of impairment, with 142,040 miles of rivers and streams threatened or impaired.

(Based on State water quality assessment data reported to EPA)

Probable Sources of Impairment in Assessed Streams and Rivers



EPA, ATTAINS database, 2017 (303(d))

9

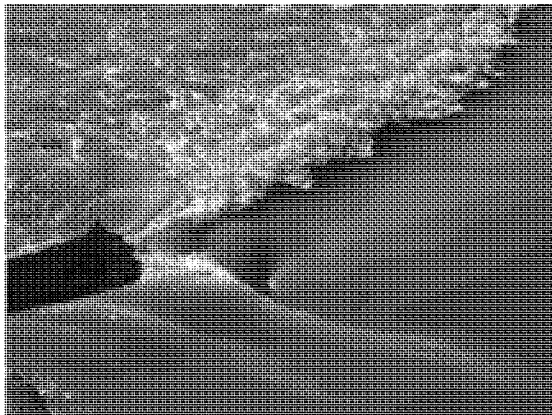


Sustained Public Attention

Everyone depends on clean water for their health and livelihoods.

Largest Recorded "Dead Zone" calls for Nutrient Loss Reduction

published 7/20/17 10:00 AM
by AgWeb



Dead zone from agricultural and wastewater runoff in the Mississippi River empties into the Gulf of Mexico.



The Gulf of Mexico's largest dead zone, "dead zone" or hypoxia, has been at its largest ever. That's about 6,000 sq. miles, according to the National Oceanic and Atmospheric Administration (NOAA). It's the largest dead zone ever recorded and is the largest dead zone in the world.

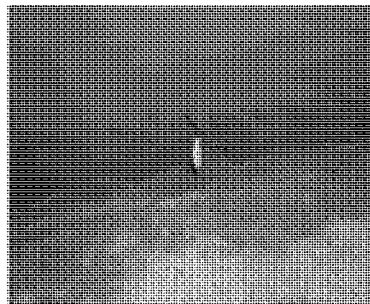
AgWeb, August 7, 2017

AMERICAN

Behind Toledo's Water Crisis, a Long-Troubled Lake Erie

published 8/2/14 10:00 AM

1000



The dead zone in Lake Erie is the largest dead zone in the world, according to NOAA.

STORY COORDINATOR

- The Water War: A 7-Deck Reservoir**
by AgWeb
- How the Lake Erie Water Crisis is a Fight Against the Odds**
by AgWeb
- How the Lake Erie Water Crisis is a Fight Against the Odds**
by AgWeb

STORY COORDINATOR

STORY COORDINATOR
This is a long-running story about the water crisis in Lake Erie. It's a story about the water crisis in Lake Erie. It's a story about the water crisis in Lake Erie.

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STORY COORDINATOR

TOLEDO, Ohio — It's a struggle for the city of Toledo and the state of Ohio to bring back what's been lost. The city of Toledo and the state of Ohio are struggling to bring back what's been lost. The city of Toledo and the state of Ohio are struggling to bring back what's been lost.

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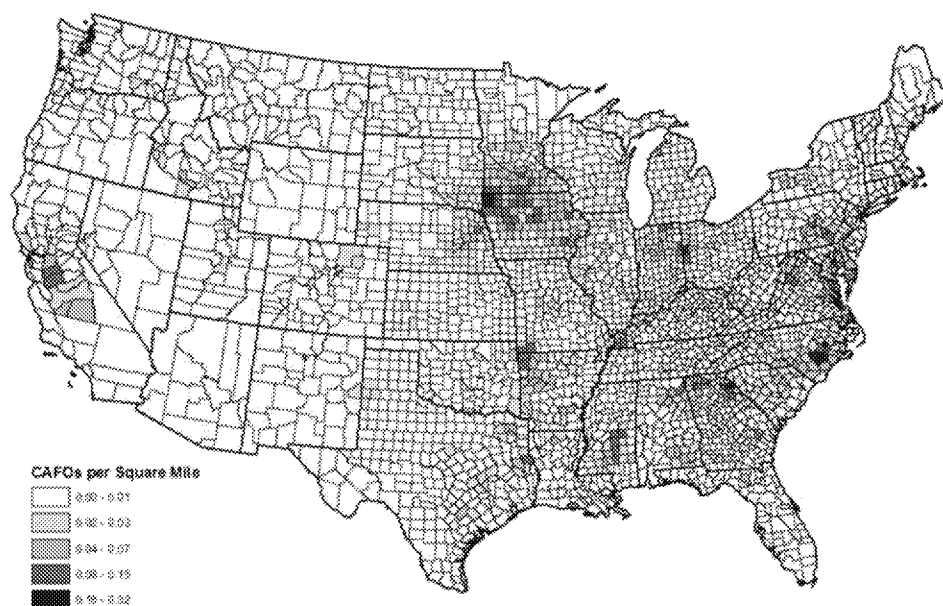
New York Times, August 4, 2014

10

Talking points: emphasize why this is important – e.g., people depend on clean water for drinking water and their livelihoods



Large CAFOs per Square Mile by County



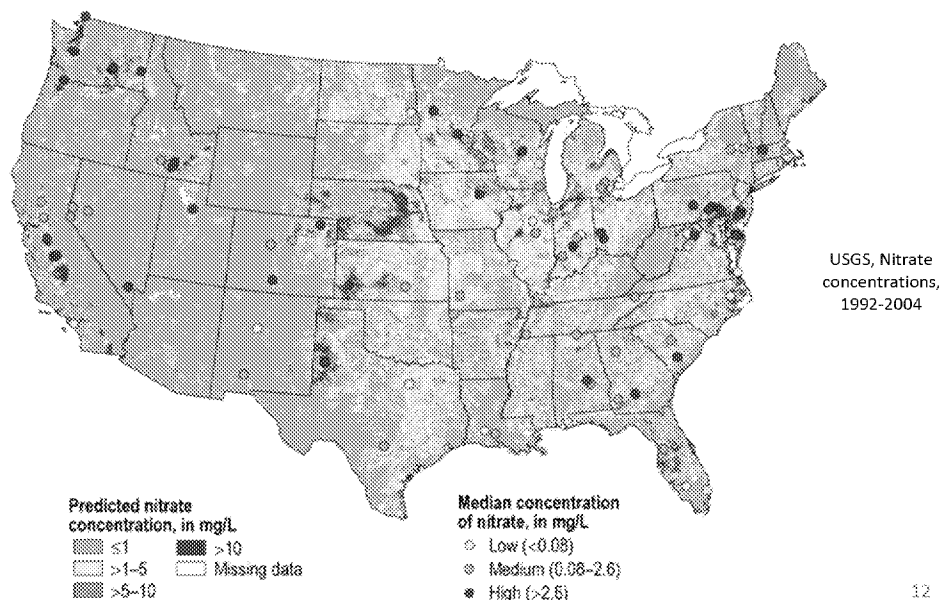
Source: USDA 2012 Census of Agriculture; analyzed and mapped by US EPA

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Nitrates in Streams and Groundwater

Fertilizers and animal manure, which are both rich in nitrogen and phosphorus, are the primary sources of nutrient pollution from agricultural sources.



Source for nutrient pollution: <https://www.epa.gov/nutrientpollution/sources-and-solutions-agriculture>



Summary of Water Quality Issues

Water quality:

- 12% of manured acres fall within the jurisdiction of NPDES program.
- Some CAFOs export as much as 70 percent of manure off-farm, where it is not regulated under NPDES. (USDA, 2009. *The Transformation of U.S. Livestock Agriculture Scale, Efficiency, and Risks.*)
- In many areas, manure is applied in excess of crop needs. (USDA, 2012. *Assessment of the Effects of Conservation Practices on Cultivated Cropland in the Upper Mississippi River Basin*)
- Recommended manure application rates are agronomic rather than water quality-based.

Therefore must apply creative approaches to:

- Support state implementation efforts
- Support partnership activities with other ag stakeholders

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Ex. 5 Deliberative Process (DP)



Support for State, Tribal, and Regional Efforts to Improve Manure Management

- Compendium of Effective State Approaches for Manure Management
 - Showcases examples of state program features that promote good manure management at AFOs.
- Provide support to State, Tribal and Regional programs via contractor technical assistance to address specific issues. In 2016 and 2017:
 - Kewaunee County, Wisconsin
 - Western Lake Erie Basin
 - Yakama Tribe, Washington State
 - Lake Champlain, Vermont

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Animal Agriculture Discussion Group (AADG)

What is the Animal Agriculture Discussion Group (AADG)?

- Established by OWM in 2013
- Involves all major animal ag. industry associations, USDA, States, universities, extension agencies
- Initial projects: Basic outreach pieces

Ex. 5 Deliberative Process (DP)

Collaborative Projects Developed by AADG

Animal Ag. Education Project

- EPA, NRCS, and AADG are developing an educational program to facilitate two-way understanding of livestock and poultry feeding operations and water quality protection measures.
 - Overview Module launched; NRCS module currently in development

Brochure: Beneficial Uses of Manure and Environmental Protection

- A two-page outreach piece developed with agriculture industry organizations.

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Ex. 5 Deliberative Process (DP)

16



Additional Animal Agriculture Initiatives

U.S. Poultry & Egg Videos on water quality protection



Video series on environmental management produced for poultry producers by the U.S. Poultry & Egg Association with support from EPA. Released in 2016.

Participation in individual sector stewardship awards



- U.S. Poultry & Egg Family Farm Awards
- Innovation Center for U.S. Dairy's Sustainability Awards



Nutrient Recycling Challenge



Goals:

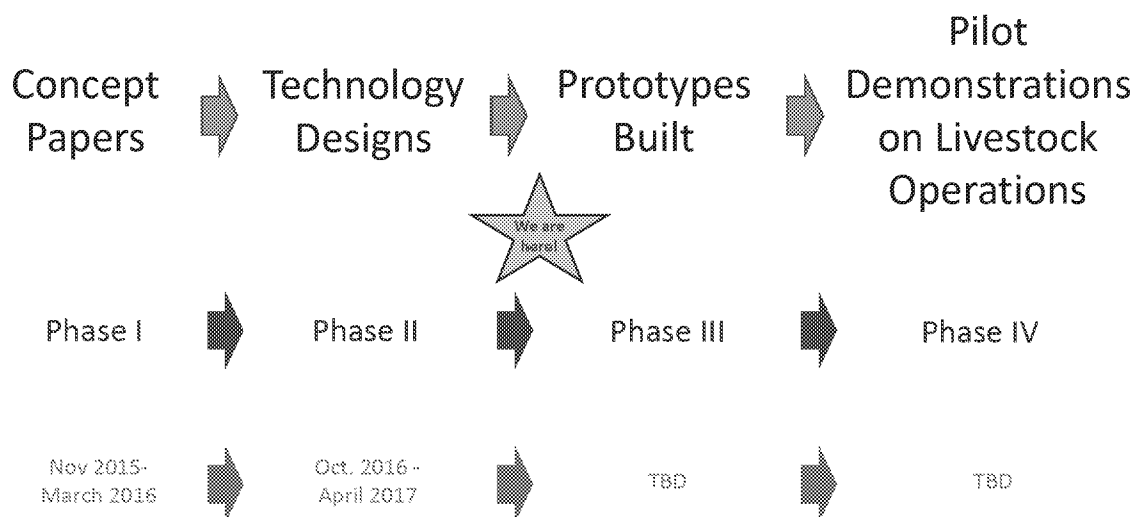
- Accelerate development of nutrient recovery technologies that dairy and swine farms can adopt, providing environmental and economic benefit.
- Raise awareness of issues/opportunities related to nutrients and manure management.
- Connect innovators with agricultural stakeholders.
- Stimulate markets for products generated by nutrient recovery technologies.

18

EPA and twenty partners are hosting a competition to find affordable technologies that recycle nutrients from dairy and swine manure and create valuable products.



Nutrient Recycling Challenge (cont.)





Collaborations with USDA and Academia

Collaborations with USDA

MOU with NRCS

Support Conservation Innovation Grant (CIG)
Program

Monthly OW-NRCS Meetings

NRCS, Agricultural Research Station (ARS) and
Rural Development are partners in the Nutrient
Recycling Challenge

NRCS participates in the AADG

Universities Participating in the Nutrient Recycling Challenge

Iowa State University

Marquette University

Michigan State University

North Carolina State University

North Dakota State University

Purdue University

SUNY College of Environmental Science and Forestry

Washington State University

American Society of Agricultural and Biological
Engineers



Ex. 5 Deliberative Process (DP)

Message

From: Brennan, Ross [Brennan.Ross@epa.gov]
Sent: 8/24/2017 4:37:43 PM
To: Molloy, Jennifer [molloy.jennifer@epa.gov]; Bonnelycke, Nina [Bonnelycke.Nina@epa.gov]; Utting, George [Utting.George@epa.gov]; Ziobro, Joseph [Ziobro.Joseph@epa.gov]
Subject: FW: Deborah - 2 things for Lee briefing

Ross Brennan
Acting Chief, Rural Branch
EPA Office of Wastewater Management
(202) 564-3248

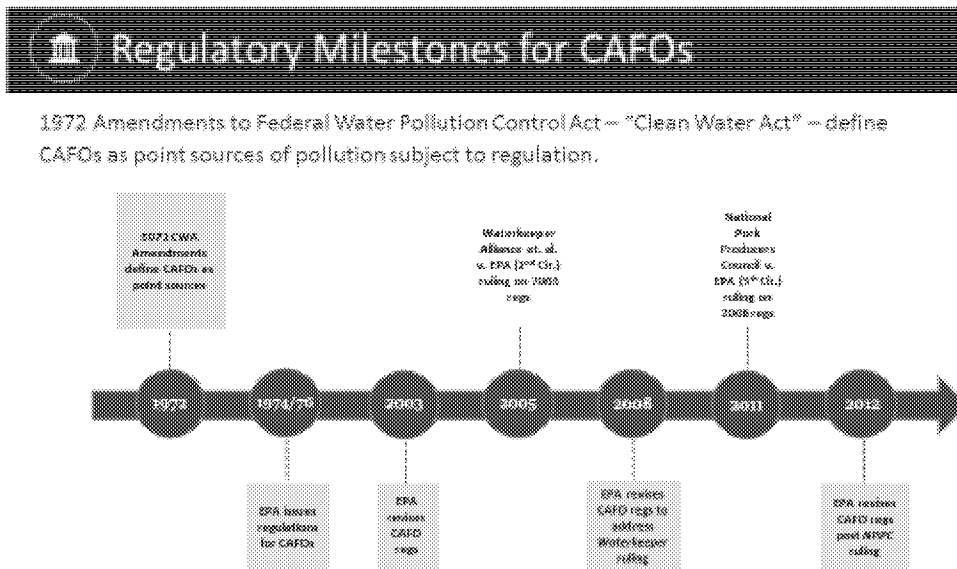
From: Brennan, Ross
Sent: Thursday, August 24, 2017 12:37 PM
To: Nagle, Deborah <Nagle.Deborah@epa.gov>
Subject: Deborah - 2 things for Lee briefing

Wanted to run this past you before we talk at 2:30.

Inviting OGC to the Lee briefing – Mary Ellen and/or Simma.

I'd like to add a bullet to the Lee slideset mentioning the FWW petition. If you're OK with the revision I'll send it to Erika to swap out for Andrew's review. It can go in several places in the slideset but I thought it fit best in the timeline section – no evaluation, just the fact.

Here's the revision:



3/8/2017: EPA received petition from Food & Water Watch and 33 other organizations to revise CAFO regulations to address implementation challenges.

Ross Brennan

Acting Chief, Rural Branch
EPA Office of Wastewater Management
(202) 564-3248

Message

From: Brennan, Ross [Brennan.Ross@epa.gov]
Sent: 2/22/2018 10:25:00 PM
To: Utting, George [Utting.George@epa.gov]; Bonnelycke, Nina [Bonnelycke.Nina@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]
Subject: FW: Andrew - elaboration on one of Rural Branch's weekly report bullets

FYI

Ross Brennan
Acting Chief, Rural Branch
EPA Office of Wastewater Management
(202) 564-3248

From: Brennan, Ross
Sent: Thursday, February 22, 2018 5:23 PM
To: Sawyers, Andrew <Sawyers.Andrew@epa.gov>
Cc: Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Subject: Andrew - elaboration on one of Rural Branch's weekly report bullets

Andrew,

Here's a bit more information in response to your question about the Food and Water Watch call mentioned in the Rural Branch highlights.

As a result of the March 2017 petition we received from Food and Water Watch and other environmental groups seeking changes to the CAFO regulations, we agreed to attend occasional calls to hear their concerns about specific implementation issues. For next week's call (the second one they've requested) they'd like to talk to us about water quality and health-related issues they're seeing with regard to large vertical integrators in places like the Eastern Shore. They understand that we are only in listening mode but they appreciate a chance to be heard. We include OECA since they are talking about on-the-ground issues that might have an enforcement angle. Will pass along to you anything interesting that comes from the call.

Ross Brennan
Acting Chief, Rural Branch
EPA Office of Wastewater Management
(202) 564-3248

From: Farris, Erika D.
Sent: Thursday, February 22, 2018 2:30 PM
To: Brennan, Ross <Brennan.Ross@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>
Subject: RE: Rural Branch highlights for Andrew

Hi – Andrew was interested in a bit more info about this Rural Branch highlight. Could you please shoot him an email with some more details?

- Next Tuesday, February 27, Food and Water Watch and other environmental groups will meet with WPD members by conference call to discuss their environmental concerns with CAFOs. OECA and OGC staff are attending as well. Final agenda is TBD. (Brennan, Molloy, Utting, Bonnelycke)

From: Brennan, Ross

Sent: Wednesday, February 21, 2018 2:24 PM

To: Farris, Erika D. <Farris.Erika@epa.gov>; Thomas, Deborah R. <thomas.deborahr@epa.gov>

Cc: Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>; Chan, Jennifer <Chan.Jennifer@epa.gov>; Chumble, Prasad <Chumble.Prasad@epa.gov>; Jones, Kristin <jones.kristin@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Ziobro, Joseph <Ziobro.Joseph@epa.gov>

Subject: Rural Branch highlights for Andrew

Here you go, Erika and Deborah. (Welcome, Deborah – looking forward to meeting you!)

- Next Tuesday, February 27, Food and Water Watch and other environmental groups will meet with WPD members by conference call to discuss their environmental concerns with CAFOs. OECA and OGC staff are attending as well. Final agenda is TBD. (Brennan, Molloy, Utting, Bonnelycke)
- Rural Branch members are attending the Aquaculture America 2018 conference this week, including participating in a “federal town hall” panel discussion with other members of the federal Interagency Workgroup on Aquaculture (IWG-A). (Molloy, Jones)

Ross Brennan

Acting Chief, Rural Branch

EPA Office of Wastewater Management
(202) 564-3248

Message

From: Subramanian, Hema [Subramanian.Hema@epa.gov]
Sent: 5/18/2017 3:31:28 PM
To: Brennan, Ross [Brennan.Ross@epa.gov]; Utting, George [Utting.George@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Bonnelycke, Nina [Bonnelycke.Nina@epa.gov]; Ziobro, Joseph [Ziobro.Joseph@epa.gov]; Ulrich, Emily [ulrich.emily@epa.gov]; Jones, Kristin [jones.kristin@epa.gov]
CC: Shenk, Kelly [shenk.kelly@epa.gov]
Subject: RE: Enviro stakeholder meetings with Andrew

I was leading it, had it on my list to get back to. Will do so next week.

Hema Subramanian
Environmental Protection Specialist
U.S. Environmental Protection Agency
Office of Water: Office of Wastewater Management/Water Permits Division/Rural Branch
1200 Pennsylvania Avenue, NW
Mail Code 4203M
Washington, DC 20460
Phone (202) 564-5041
subramanian.hema@epa.gov

From: Brennan, Ross
Sent: Thursday, May 18, 2017 11:23 AM
To: Utting, George <Utting.George@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Ziobro, Joseph <Ziobro.Joseph@epa.gov>; Ulrich, Emily <ulrich.emily@epa.gov>; Jones, Kristin <jones.kristin@epa.gov>
Cc: Shenk, Kelly <shenk.kelly@epa.gov>
Subject: Enviro stakeholder meetings with Andrew

After yesterday's meeting with FWW on the CAFO rulemaking petition, Deborah pulled a couple of us aside and – consistent with her observations in the FWW meeting – suggested launching a series of enviro meetings with Andrew. Over the past couple of months RB members had participated in a WPD-wide effort to frame up such meetings; my understanding is that the leadership originated here. Deborah suggested that the meetings would involve the national environmental organizations and that they would extend across NPDES. But she seemed particularly interested in starting with CAFOs. Maybe we could chat in our next branch meeting or CAFO team meeting about an approach for such meetings. I don't want RB to get stuck managing this project, just the meetings for CAFOs and animal ag, but it does seem the early energy and thinking originated here and RB could carry some of that momentum through the planning stages. Just a thought – we can catch up further!

Ross Brennan
Acting Chief, Rural Branch
EPA Office of Wastewater Management
(202) 564-3248

Appointment

From: Nagle, Deborah [Nagle.Deborah@epa.gov]
Sent: 5/2/2017 6:07:41 PM
To: Nagle, Deborah [Nagle.Deborah@epa.gov]; Brennan, Ross [Brennan.Ross@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Utting, George [Utting.George@epa.gov]; Bonnelycke, Nina [Bonnelycke.Nina@epa.gov]; Tarah Heinzen [theinzen@fwwatch.org]; Shenk, Kelly [shenk.kelly@epa.gov]; Wood, Robert [Wood.Robert@epa.gov]; Goodwin, Janet [Goodwin.Janet@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]; Levine, MaryEllen [levine.maryellen@epa.gov]
CC: Sarah Geers [sgeers@midwestadvocates.org]; Michele Merkel [mmerkel@fwwatch.org]; Scott Edwards [sedwards@fwwatch.org]; Terry, Jennifer [terry@dmww.com]; Robert Martin [rmarti57@jhu.edu]; Paul Hinson [hinsonpr{Ex. 6 Personal Privacy (PP)}]; Adam Kron [akron@environmentalintegrity.org]; Zipf, Lynn [Zipf.Lynn@epa.gov]
Subject: CAFO CWA Petition
Attachments: REAL ID Information 07-28-14.docx
Location: 1201 Constitution Avenue, N.W., Room 7217, William Jefferson Clinton Building; Dial in: Ex. 6 Personal Privacy (PP)
Ex. 6 Personal Privacy (PP)
Start: 5/17/2017 6:00:00 PM
End: 5/17/2017 7:00:00 PM
Show Time As: Busy

Required Attendees: Nagle, Deborah; Brennan, Ross; Molloy, Jennifer; Utting, George; Bonnelycke, Nina; Tarah Heinzen; Shenk, Kelly; Wood, Robert; Shriner, Paul; Goodwin, Janet; Kupchan, Simma; Levine, MaryEllen
Optional Attendees: Sarah Geers; Michele Merkel; Scott Edwards; Terry, Jennifer; cruisermomii; Robert Martin; Paul Hinson; Adam Kron; Zipf, Lynn

Our office is located at 1201 Constitution Avenue, N.W., Washington, DC (Federal Triangle Metro stop). The entrance is on Constitution Avenue near the corner of 12th & Constitution Avenue, N.W. Once you arrive at the building, please present your identification to the Security Guard (please see attachment for proper identification). After completing the security procedures, please ask the guard to call 202-564-8478 (DeMara Magruder) so that someone can come down to escort you to the conference room.

Information for attendees who will be calling into the meeting:

Dial In: Ex. 6 Personal Privacy (PP)
Passcode: Ex. 6 Personal Privacy (PP)

Thank you.

Message

From: Bonnelycke, Nina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D2E64702B03740499BBAD90BE2F6C444-NBONNELY]
Sent: 3/9/2017 3:34:43 PM
To: Molloy, Jennifer [molloy.jennifer@epa.gov]
Subject: FW: Food and Water Watch petition to EPA on CAFOs

Sounds like George is on it. ;)

~~~~~  
*Nina J. Bonnelycke*  
Rural Branch, Water Permits Division  
Office of Wastewater Management  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W., 4203M  
Washington, D.C. 20460  
(202)564-0764

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**From:** Utting, George  
**Sent:** Thursday, March 09, 2017 10:30 AM  
**To:** Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>; Abrams, Nancy <Abrams.Nancy@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Jones, Kristin <jones.kristin@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Ziobro, Joseph <Ziobro.Joseph@epa.gov>  
**Cc:** Kupchan, Simma <Kupchan.Simma@epa.gov>; Nagle, Deborah <Nagle.Deborah@epa.gov>  
**Subject:** RE: Food and Water Watch petition to EPA on CAFOs

FYI. Deborah and I discussed yesterday.

Ex. 5 Deliberative Process (DP)

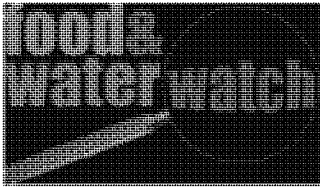
## Ex. 5 Deliberative Process (DP)

George Utting  
Water Permits Division (MC-4203M)  
U.S. EPA, 1200 Pennsylvania Avenue, NW,  
Washington, DC 20460-0001  
(202) 564-0744 / Fax (202) 564-6384

---

**From:** Bonnelycke, Nina  
**Sent:** Thursday, March 09, 2017 9:56 AM  
**To:** Abrams, Nancy <Abrams.Nancy@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Jones, Kristin <jones.kristin@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Ziobro, Joseph <Ziobro.Joseph@epa.gov>  
**Cc:** Kupchan, Simma <Kupchan.Simma@epa.gov>; Nagle, Deborah <Nagle.Deborah@epa.gov>  
**Subject:** Food and Water Watch petition to EPA on CAFOs

Here's the link to the press release and the petition: <https://www.foodandwaterwatch.org/news/advocates-urge-pruitts-epa-do-its-job>.



# Advocates Urge Pruitt's EPA to Do Its Job

Rural communities demand protection from factory farms.



By Kate Fried

03.8.17

This week, nearly three dozen advocacy groups filed a petition with Scott Pruitt's EPA, asking the troubled agency to do more to protect communities from the environmental and public health nightmares associated with factory farming.

The petition could not have come at a more critical time. Reports emerged last week about President Trump's plans to gut the agency, cutting up to \$2 billion from its budget and sacrificing as many as 3,000 employees. Since the current administration took office, the EPA has been faced with unprecedented attacks from the very people who should be ensuring that it has the funding and staff it needs to keep communities safe from large scale, industrial factory farms, otherwise known as CAFOs.

This petition shows why the EPA's budget should be maintained so that the Agency can do its job to protect communities from polluting sources such as CAFOs. No matter who runs the EPA, it still has a mission to uphold.

## **The Threat of Factory Farms to Environment, Public Health**

Most livestock in the U.S. are raised in factory farms, which can confine thousands, or even millions, of animals and their waste. Factory farms present a major environmental and public health threat. The vast quantities of manure generated by factory farms are typically disposed of, untreated, on cropland.

It is often up to communities to shoulder the costs of dealing with this mess, in the forms of contaminated drinking water, noxious air pollution, and foul manure runoff into streams. These streams feed into our major waterways, like the Chesapeake Bay, Great Lakes and Gulf of Mexico—contributing to dead zones that destroy aquatic ecosystems, recreation and livelihoods.

Factory farms have been a persistent problem in the U.S., and now with the decimation of the EPA, they're expected to get even worse. Under the Clean Water Act, discharging factory farms are required to have permits to limit and keep track of pollution. But only a fraction of factory farms, an estimated 40 percent, according to the EPA, actually have them, and their permits are ineffective due to lax regulations and almost non-existent enforcement. As a result, factory farms are ruining air and water quality in many communities, even though the EPA has a duty to protect public health and the environment. This petition asks EPA to close the loopholes so that polluting factory farms have permits and those permits protect our water ways.

## **How CAFOs Threaten Communities**

Exactly how is CAFO pollution harmful? Naeema Muhammad, Co-Director and Community Organizer at the NC Environmental Justice Network described their effects as generating "acrid air" and "polluted water ways."

"I have seen beautiful rivers turn green as a result of runoff from CAFOs," added Earl Hatley, Oklahoma's Grand Riverkeeper. "We clearly need stronger protections, because poultry waste is polluting Oklahoma's rivers, streams and lakes."

Former EPA employees are also taking note of the disaster percolating within the embattled agency. This week, William D. Ruckelshaus, who served as EPA administrator under Presidents Richard M. Nixon and Ronald Reagan, published an op-ed in the New York Times advocating in favor of an EPA that is empowered to protect communities.

Eric Schaeffer, executive director of the Environmental Integrity Project, who ran the EPA's Office of Civil Enforcement under George W. Bush, and whose organization also signed-on to the petition remarked, "We are simply asking EPA to close loopholes and clarify existing Clean Water Act requirements, so that the agency can properly do its job and keep big animal feeding operations from polluting our nation's waters. The Clean Water Act requirements set out by Congress are simple, but the application to factory farms has been a needlessly complex saga. The changes we seek will give us clear rules and cleaner water."

Despite our current polarized political climate, everyone needs clean air and water. Those who support Trump and Pruitt's agenda don't want their children to breathe dirty air, or to drink disgusting water any more than those participating in the resistance do. That's why it's important to stand up to their dirty, divisive agenda.

~~~~~  
Nina J. Bonnelycke
Rural Branch, Water Permits Division
Office of Wastewater Management
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W., 4203M
Washington, D.C. 20460
(202)564-0764

Message

From: Bonnelycke, Nina [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D2E64702B03740499BBAD90BE2F6C444-NBONNELY]
Sent: 3/8/2017 10:02:51 PM
To: Peak, Nicholas [Peak.Nicholas@epa.gov]
Subject: Fw: Food & Water Watch et al petition
Attachments: citizens_cafo_cwa_petition.pdf

fyi

~~~~~  
*Nina J. Bonnelycke*  
Rural Branch, Water Permits Division  
Office of Wastewater Management  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W., 4203M  
Washington, D.C. 20460  
(202)564-0764

---

**From:** Molloy, Jennifer  
**Sent:** Wednesday, March 8, 2017 4:52 PM  
**To:** Abrams, Nancy; Bonnelycke, Nina; Jones, Kristin; Subramanian, Hema; Utting, George; Ziobro, Joseph  
**Subject:** Food & Water Watch et al petition

I haven't read it carefully, but I scanned it. It's interesting and also frustrating.

Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939  
molloy.jennifer@epa.gov

## Appointment

---

**From:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Sent:** 5/2/2017 6:07:41 PM  
**To:** Nagle, Deborah [Nagle.Deborah@epa.gov]; Brennan, Ross [Brennan.Ross@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Utting, George [Utting.George@epa.gov]; Bonnelycke, Nina [Bonnelycke.Nina@epa.gov]; Tarah Heinzen [theinzen@fwwatch.org]; Shenk, Kelly [shenk.kelly@epa.gov]; Wood, Robert [Wood.Robert@epa.gov]; Goodwin, Janet [Goodwin.Janet@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]; Levine, MaryEllen [levine.maryellen@epa.gov]  
**CC:** Sarah Geers [sgeers@midwestadvocates.org]; Michele Merkel [mmerkel@fwwatch.org]; Scott Edwards [sedwards@fwwatch.org]; Terry, Jennifer [terry@dmww.com]; Robert Martin [rmarti57@jhu.edu]; Paul Hinson [hinsonpr@epa.gov] Ex: 6 Personal Privacy (PP); Adam Kron [akron@environmentalintegrity.org]; Zipf, Lynn [Zipf.Lynn@epa.gov]  
**Subject:** CAFO CWA Petition  
**Location:** 1201 Constitution Avenue, N.W., Room 7217, William Jefferson Clinton Building; Dial in: 1-866-299-3188; Passcode: 2025641185#  
**Start:** 5/17/2017 6:00:00 PM  
**End:** 5/17/2017 7:00:00 PM  
**Show Time As:** Busy

**Required Attendees:** Nagle, Deborah; Brennan, Ross; Molloy, Jennifer; Utting, George; Bonnelycke, Nina; Tarah Heinzen; Shenk, Kelly; Wood, Robert; Shriner, Paul; Goodwin, Janet; Kupchan, Simma; Levine, MaryEllen  
**Optional Attendees:** Sarah Geers; Michele Merkel; Scott Edwards; Terry, Jennifer; cruisermomii; Robert Martin; Paul Hinson; Adam Kron; Zipf, Lynn

## Appointment

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**From:** Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]  
**Sent:** 7/6/2017 5:05:16 PM  
**To:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Subject:** Accepted: HOLD: CAFO Petition Meeting w/Petitioners  
**Start:** 8/1/2017 1:00:00 PM  
**End:** 8/1/2017 3:00:00 PM  
**Show Time As:** Busy



## Appointment

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**From:** Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]  
**Sent:** 7/6/2017 5:05:21 PM  
**To:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Subject:** Accepted: HOLD: CAFO Petition Meeting w/Petitioners  
**Start:** 8/2/2017 7:00:00 PM  
**End:** 8/2/2017 8:00:00 PM  
**Show Time As:** Busy

## Appointment

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**From:** Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]  
**Sent:** 7/6/2017 7:20:20 PM  
**To:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Subject:** Accepted: HOLD: CAFO Petition Meeting w/Petitioners  
**Start:** 8/8/2017 1:00:00 PM  
**End:** 8/8/2017 3:00:00 PM  
**Show Time As:** Busy

## Appointment

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**From:** Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]  
**Sent:** 7/6/2017 7:20:21 PM  
**To:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Subject:** Accepted: HOLD: CAFO Petition Meeting w/Petitioners  
**Start:** 8/9/2017 6:00:00 PM  
**End:** 8/9/2017 8:00:00 PM  
**Show Time As:** Busy

## Appointment

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**From:** Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]  
**Sent:** 7/7/2017 4:52:31 PM  
**To:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Subject:** Accepted: CAFO Petition Meeting w/Petitioners  
**Start:** 8/15/2017 5:00:00 PM  
**End:** 8/15/2017 6:00:00 PM  
**Show Time As:** Busy

## Appointment

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**From:** Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]  
**Sent:** 7/6/2017 7:20:26 PM  
**To:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Subject:** Accepted: HOLD: CAFO Petition Meeting w/Petitioners  
**Start:** 8/9/2017 2:00:00 PM  
**End:** 8/9/2017 3:00:00 PM  
**Show Time As:** Busy

## Appointment

---

**From:** Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]  
**Sent:** 7/7/2017 4:52:34 PM  
**To:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Subject:** Accepted: HOLD: CAFO Petition Meeting w/Petitioners  
**Start:** 8/16/2017 8:00:00 PM  
**End:** 8/16/2017 9:00:00 PM  
**Show Time As:** Busy

## Appointment

---

**From:** Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]  
**Sent:** 6/13/2018 9:33:28 PM  
**To:** Kupchan, Simma [Kupchan.Simma@epa.gov]; Utting, George [Utting.George@epa.gov]

**Subject:** -Touch base - Next steps for FWW CAFO petition  
**Location:** Simma's conference room?

**Start:** 6/27/2018 6:30:00 PM  
**End:** 6/27/2018 7:00:00 PM  
**Show Time As:** Tentative

**Required Attendees:** Kupchan, Simma; Utting, George

## Appointment

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**From:** Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]  
**Sent:** 7/5/2017 2:45:50 PM  
**To:** Utting, George [Utting.George@epa.gov]  
**Subject:** FW: CAFO CWA Petition Meeting Follow Up  
**Location:** Dial in: 1-866-299-3188; Passcode: 202-564-1185  
**Start:** 7/5/2017 5:30:00 PM  
**End:** 7/5/2017 6:00:00 PM  
**Show Time As:** Tentative



## Appointment

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**From:** Magruder, DeMara [Magruder.Demara@epa.gov]  
**Sent:** 5/15/2017 2:54:33 PM  
**To:** Brennan, Ross [Brennan.Ross@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Utting, George [Utting.George@epa.gov]; Bonnelycke, Nina [Bonnelycke.Nina@epa.gov]; Tarah Heinzen [theinzen@fwwatch.org]; Shenk, Kelly [shenk.kelly@epa.gov]; Wood, Robert [Wood.Robert@epa.gov]; Shriner, Paul [Shriner.Paul@epa.gov]; Goodwin, Janet [Goodwin.Janet@epa.gov]  
**CC:** Sarah Geers [sgeers@midwestadvocates.org]; Michele Merkel [mmerkel@fwwatch.org]; Scott Edwards [sedwards@fwwatch.org]; Terry, Jennifer [terry@dmwww.com]; cruisermomii [cruisermomii@fwwatch.org] Ex. 6 Personal Privacy (PP); Robert Martin [rmarti57@jhu.edu]; Paul Hinson [hinsonpr@jhu.edu] Ex. 6 Personal Privacy (PP); Adam Kron [akron@environmentalintegrity.org]  
**Subject:** CAFO CWA Petition  
**Location:** 1201 Constitution Avenue, N.W., Room 7217, William Jefferson Clinton Building; Dial in: 1-866-299-3188; Passcode: 2025641185#  
**Start:** 5/17/2017 6:00:00 PM  
**End:** 5/17/2017 7:00:00 PM  
**Show Time As:** Tentative

**Required Attendees:** Brennan, Ross; Molloy, Jennifer; Utting, George; Bonnelycke, Nina; Tarah Heinzen; Shenk, Kelly; Wood, Robert; Shriner, Paul; Goodwin, Janet  
**Optional Attendees:** Sarah Geers; Michele Merkel; Scott Edwards; Terry, Jennifer; cruisermomii; Robert Martin; Paul Hinson; Adam Kron

## Appointment

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**From:** Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]  
**Sent:** 7/5/2017 1:26:20 PM  
**To:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Subject:** Accepted: CAFO CWA Petition Meeting Follow Up  
**Location:** Dial in: 1-866-299-3188; Passcode: 202-564-1185  
**Start:** 7/5/2017 5:30:00 PM  
**End:** 7/5/2017 6:00:00 PM  
**Show Time As:** Busy

## Appointment

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**From:** Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]  
**Sent:** 7/7/2017 4:51:35 PM  
**To:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Subject:** Accepted: CAFO Petition Meeting w/Petitioners  
**Start:** 8/8/2017 7:30:00 PM  
**End:** 8/8/2017 9:00:00 PM  
**Show Time As:** Busy

## Appointment

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**From:** Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]  
**Sent:** 6/13/2018 9:33:26 PM  
**To:** Brennan, Ross [Brennan.Ross@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]; Utting, George [Utting.George@epa.gov]

**Subject:** -Touch base - Next steps for FWW CAFO petition

**Location:** Simma's conference room?

**Start:** 6/27/2018 6:30:00 PM

**End:** 6/27/2018 7:00:00 PM

**Show Time As:** Busy

**Required Attendees:** Kupchan, Simma; Utting, George

## Appointment

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**From:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Sent:** 5/2/2017 6:07:41 PM  
**To:** Nagle, Deborah [Nagle.Deborah@epa.gov]; Brennan, Ross [Brennan.Ross@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Utting, George [Utting.George@epa.gov]; Bonnelycke, Nina [Bonnelycke.Nina@epa.gov]; Tarah Heinzen [theinzen@fwwatch.org]; Shenk, Kelly [shenk.kelly@epa.gov]; Wood, Robert [Wood.Robert@epa.gov]; Goodwin, Janet [Goodwin.Janet@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]; Levine, MaryEllen [levine.maryellen@epa.gov]  
**CC:** Sarah Geers [sgeers@midwestadvocates.org]; Michele Merkel [mmerkel@fwwatch.org]; Scott Edwards [sedwards@fwwatch.org]; Terry, Jennifer [terry@dmww.com]; Robert Martin [rmarti57@jhu.edu]; Paul Hinson [hinsonpr@Ex. & Personal Privacy (PP)]; Adam Kron [akron@environmentalintegrity.org]; Zipf, Lynn [Zipf.Lynn@epa.gov]  
**Subject:** CAFO CWA Petition  
**Location:** 1201 Constitution Avenue, N.W., Room 7217, William Jefferson Clinton Building; Dial in: 1-866-299-3188; Passcode: 2025641185#  
**Start:** 5/17/2017 6:00:00 PM  
**End:** 5/17/2017 7:00:00 PM  
**Show Time As:** Busy

**Required Attendees:** Nagle, Deborah; Brennan, Ross; Molloy, Jennifer; Utting, George; Bonnelycke, Nina; Tarah Heinzen; Shenk, Kelly; Wood, Robert; Shriner, Paul; Goodwin, Janet; Kupchan, Simma; Levine, MaryEllen  
**Optional Attendees:** Sarah Geers; Michele Merkel; Scott Edwards; Terry, Jennifer; cruisermomii; Robert Martin; Paul Hinson; Adam Kron; Zipf, Lynn

## Appointment

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**From:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Sent:** 7/5/2017 1:26:03 PM  
**To:** Nagle, Deborah [Nagle.Deborah@epa.gov]; Tarah Heinzen [theinzen@fwwatch.org]; kkasserman@fwwatch.org; Brennan, Ross [Brennan.Ross@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Shenk, Kelly [shenk.kelly@epa.gov]  
**CC:** Utting, George [Utting.George@epa.gov]  
**Subject:** CAFO CWA Petition Meeting Follow Up  
**Location:** Dial in: 1-866-299-3188; Passcode: 202-564-1185  
**Start:** 7/5/2017 5:30:00 PM  
**End:** 7/5/2017 6:00:00 PM  
**Show Time As:** Busy

**Required Attendees:** Nagle, Deborah; Tarah Heinzen; kkasserman@fwwatch.org; Brennan, Ross; Molloy, Jennifer; Shenk, Kelly  
**Optional Attendees:** Utting, George

Message

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**From:** Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]  
**Sent:** 3/29/2017 12:23:21 PM  
**To:** Hudiburgh, Gary [Hudiburgh.Gary@epa.gov]  
**Subject:** RE: Response please: Petitions for Rulemaking Website

Thanks, Gary. I know of none except for the CAFO one.

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Ross Brennan, Acting Chief  
State and Regional Branch  
EPA Office of Wastewater Management  
(202) 564-3248

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**From:** Hudiburgh, Gary  
**Sent:** Wednesday, March 29, 2017 7:41 AM  
**To:** Brennan, Ross <Brennan.Ross@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>  
**Subject:** RE: Response please: Petitions for Rulemaking Website

I know of none.

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**From:** Brennan, Ross  
**Sent:** Tuesday, March 28, 2017 4:00 PM  
**To:** Hudiburgh, Gary <Hudiburgh.Gary@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>  
**Subject:** FW: Response please: Petitions for Rulemaking Website  
**Importance:** High

I'm sure our answer is no but just wanted to check – the only one I know of is the CAFO one

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Ross Brennan, Acting Chief  
State and Regional Branch  
EPA Office of Wastewater Management  
(202) 564-3248

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**From:** Stebe, Katherine  
**Sent:** Tuesday, March 28, 2017 2:10 PM  
**To:** Brennan, Ross <Brennan.Ross@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Abrams, Nancy <Abrams.Nancy@epa.gov>; Kloss, Christopher <Kloss.Christopher@epa.gov>; Pickrel, Jan <Pickrel.Jan@epa.gov>; Gueriguian, Leo <Gueriguian.Leo@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>  
**Cc:** Gilbertson, Sue <gilbertson.sue@epa.gov>; Schollhamer, Mary <Schollhamer.Mary@epa.gov>  
**Subject:** FW: Response please: Petitions for Rulemaking Website  
**Importance:** High

Hello,

Do you know if we've received any petitions for rulemaking since Nov. 2016, besides those on the attached list? (list includes one from Food & Water Watch regarding CAFOs).

## Ex. 5 Deliberative Process (DP)

# Ex. 5 Deliberative Process (DP)

If you have additional petitions, please send me an electronic copy of the petition and the following information:

*Date the petition was received:*

*Name of the petitioner:*

*Statute relevant to the petition:*

*Brief description of the issue:*

Thanks!

Katherine (Telleen) Stebe  
Office of Wastewater Management  
U.S. Environmental Protection Agency  
(202) 564-7933

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**From:** Evalenko, Sandy

**Sent:** Tuesday, March 28, 2017 1:38 PM

**To:** Flaharty, Stephanie <[Flaharty.Stephanie@epa.gov](mailto:Flaharty.Stephanie@epa.gov)>; Gerstein, Arielle <[gerstein.arielle@epa.gov](mailto:gerstein.arielle@epa.gov)>; Nelson, Tomeka <[Nelson.Tomeka@epa.gov](mailto:Nelson.Tomeka@epa.gov)>; Stebe, Katherine <[Stebe.Katherine@epa.gov](mailto:Stebe.Katherine@epa.gov)>

**Cc:** Evalenko, Sandy <[Evalenko.Sandy@epa.gov](mailto:Evalenko.Sandy@epa.gov)>; Lousberg, Macara <[Lousberg.Macara@epa.gov](mailto:Lousberg.Macara@epa.gov)>; Ruf, Christine <[Ruf.Christine@epa.gov](mailto:Ruf.Christine@epa.gov)>

**Subject:** Response please: Petitions for Rulemaking Website

**Importance:** High

SRMs -- Please let me know if your office has received any rulemaking petitions between 11/2016 and now. Attached is a list from CMS of documents that were identified as petitions provided by Diane Jones-Coleman. Please let me know if you have any additional petitions than those on the attached list. We recently received a petition through a docket and it was added to CMS.

# Ex. 5 Deliberative Process (DP)

If you have additional petitions, please submit an electronic copy of the petition and the following information to me:

*Date the petition was received:*

*Name of the petitioner:*

*Statute relevant to the petition:*

*Brief description of the issue:*

I will make the document 508 compliant and submit it to



Katherine: Please let me know if OWM is addressing this petition on the attached list -- AX-17-000-5937  
Heinzen, Tarah Food & Water Watch Pending 03/08/2017 DRF - Clean Water Act petition to revise the  
Environmental Protection Agency's regulations for concentrated animal feeding operations.

Thanks,  
Sandy

**Animal Agriculture Discussion Group Meeting**  
**April 5, 2017**  
**1:00 – 5:00 pm EST**  
**U.S. Environmental Protection Agency**  
**William Jefferson Clinton Building - North, Room 6500**  
**Washington, DC 20460**  
**Final Agenda – INTERNAL ANNOTATED w/TPS**

**Agenda**

|                |                                                                                                                                          |
|----------------|------------------------------------------------------------------------------------------------------------------------------------------|
| 12:30 pm       | Arrivals                                                                                                                                 |
| 1:00 – 1:10 pm | <b>Welcome, Preliminary Remarks</b><br>– <i>Andrew Sawyers, EPA Office of Wastewater Management Director</i>                             |
| 1:10 – 1:30 pm | <div><b>Ex. 5 Deliberative Process (DP)</b></div>                                                                                        |
| 1:30 – 1:40 pm |                                                                                                                                          |
|                | <b>Introductions, Announcements</b><br><br><u>Deborah</u><br>1. EPA Compendium of State Approaches for Manure Management – Deborah Nagle |
|                | <div><b>Ex. 5 Deliberative Process (DP)</b></div>                                                                                        |

|                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                | <p>2. NPDES CAFO Rule Implementation Status Report</p> <div data-bbox="558 217 1458 435"> <p><b>Ex. 5 Deliberative Process (DP)</b></p> </div> <p>3. EPA's Overview Module for the Ag Education Project</p> <div data-bbox="566 506 1461 623"> <p><b>Ex. 5 Deliberative Process (DP)</b></p> </div> <p>4. AADG Draft Factsheet</p> <div data-bbox="570 676 1466 825"> <p><b>Ex. 5 Deliberative Process (DP)</b></p> </div> <p><u>Kelly</u><br/>CTIC/OWOW Project Update</p> <div data-bbox="474 933 1463 1373"> <p><b>Ex. 5 Deliberative Process (DP)</b></p> </div> <p>EPA Transition Update</p> <div data-bbox="433 1468 1469 1673"> <p><b>Ex. 5 Deliberative Process (DP)</b></p> </div> |
| 1:40 – 2:20 pm | <p><b>Updates on Collaborative Projects and Ideas for Optimizing their Impact</b></p> <ul style="list-style-type: none"> <li>• <b>AADG Ag Education Project</b><br/>– <i>EPA, NRCS, Sector Leads</i></li> </ul> <p><u>Deborah</u></p> <div data-bbox="474 1890 1362 1920"> <p><b>Ex. 5 Deliberative Process (DP)</b></p> </div>                                                                                                                                                                                                                                                                                                                                                             |

|                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|-------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                   | <div> <h2>Ex. 5 Deliberative Process (DP)</h2> </div> <div> <p>Kelly</p> <div> <h2>Ex. 5 Deliberative Process (DP)</h2> <ul style="list-style-type: none"> <li> <b>Nutrient Recycling Challenge</b><br/> <i>– Joseph Ziobro and Hema Subramanian, EPA Water Permits Division/ Rural Branch</i> </li> <li> <b>U.S. Poultry &amp; Egg Association Family Farm 2017 Award Winners</b><br/> <i>– Paul Bredwell, U.S. Poultry &amp; Egg Association</i> </li> </ul> </div> </div>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 2:20 – 3:00 pm    | <p><b>Federal Advisory Committees</b></p> <ul style="list-style-type: none"> <li> <b>Farm, Ranch, and Rural Communities Federal Advisory Committee (FRRCC)</b><br/> <p>Dave Petty will present the major recommendations of the FRRCC, discuss how this report can have a life beyond the previous Administration, share his experience serving as a member of the FRRCC, and discuss the value of having an informal group like the AADG.</p> <ul style="list-style-type: none"> <li> <b>2016 Final Report to the Administrator</b><br/> <i>(see attachment)</i><br/> <i>– Dave Petty, Iowa River Ranch and Deputy Chair of 2014-2016 FRRCC</i> </li> <li> <b>Agency Response to the FRRCC Final Report and updates on Status–</b><br/> <i>Lena Ferris, EPA Designated Federal Officer to the FRRCC</i> </li> <li> <b>Utility in 2017 and Beyond</b> </li> </ul> </li> <li> <b>The Federal Advisory Committee Act:</b> Discussion of its guidelines, and how it shapes the role of AADG discussions regarding EPA projects<br/> <i>– Noelle Green, EPA Office of General Counsel</i> </li> </ul> |
| 3:00 – 3:10 pm    | Break                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 3:10 pm – 4:00 pm | <p><b>Looking Ahead with the AADG, Building on its Success</b><br/> <i>– Discussion facilitated by Scott Yager, National Cattlemen’s Beef Association and Kelly Shenk, EPA Region 3 Agricultural Advisor</i></p> <ul style="list-style-type: none"> <li>What is working well with the AADG?</li> <li>How can we communicate about and build on the AADG’s success?</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

|                |                                                                                                                                                                                                                                         |
|----------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                | <ul style="list-style-type: none"><li>• What are opportunities for further collaborative projects for water quality?</li></ul> <p><u>Kelly</u></p> <div></div> <p><b>Ex. 5 Deliberative Process (DP)</b></p> <p><i>[Attachment]</i></p> |
| 4:00 – 4:40 pm | <p><b>AADG Summer Meeting – Planning Session</b><br/>– Deborah Nagle, EPA Water Permits Division Director; Hema Subramanian and Joseph Ziobro, EPA Water Permits Division/Rural Branch</p>                                              |

|                |                                                                                                                                                        |
|----------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|
|                | <div> <h2>Ex. 5 Deliberative Process (DP)</h2> </div>                                                                                                  |
| 4:40 – 5:00 pm | <p><b>Wrap-up, Takeaways, Action Items</b><br/> – Hema Subramanian, EPA Water Permits Division/Rural Branch</p> <p><b>Closing Remarks, Adjourn</b></p> |
| 5:30 – 7:00 pm | <p><i>Optional Networking Dinner</i><br/> Boss Shepherd's Restaurant<br/> 513 13<sup>th</sup> St., NW Washington, DC 20004</p>                         |

### Other Internal Back-pocket TPs

*American Farm Bureau Federation and National Pork Producers Council v. U.S. Environmental Protection Agency, Settlement.*

## Ex. 5 Deliberative Process (DP)

### Food & Water Watch Petition

- On March 8, 2017 EPA Administrator Scott Pruitt received a petition from Food & Water Watch and 33 other organizations: *Petition to Revise the Clean Water Act Regulations for Concentrated Animal Feeding Operations.*
- EPA Office of Water has sent a letter to the petitioners acknowledging receipt of the petition, and offering to meet with them for discussion about their concerns.

## Ex. 5 Deliberative Process (DP)

Chesapeake Bay Budget: If asked – Kelly Shenk

## Ex. 5 Deliberative Process (DP)

# **Ex. 5 Deliberative Process (DP)**

Chesapeake Bay Settlement Agreement Activities: If asked – Kelly Shenk

## **Ex. 5 Deliberative Process (DP)**

## Message

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**From:** Farris, Erika D. [Farris.Erika@epa.gov]  
**Sent:** 2/22/2018 7:37:46 PM  
**To:** OW-OWM-Everyone [OWOWMEveryone@epa.gov]  
**Subject:** OWM Weekly Highlights for February 21, 2018

Good Afternoon OWM,

Here are the highlights from this week. The full version can be found on the G: drive, [here](#). Thanks for your contributions!

### Immediate Office

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- This week the OWM IO welcomed Debbie Thomas, a new SEE employee. Debbie will be assisting with scheduling, travel, and other tasks to keep the OWM IO functioning.
- This week Andrew served as the Designated Federal Official (DFO) at the EFAB Spring meeting in DC.

### Water Permits Division

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#### Industrial Branch

- **FAR for Proposed Hazardous Substance Rule:** As the OW members of the workgroup, Jan Pickrel and Rebecca Christopher will be attending the FAR for an OLEM proposed rulemaking on spill prevention for hazardous substances on Wednesday, February 21. Erika Farris, Bryan Rittenhouse, Greg Schaner and Pete Ford in OGC also provided valuable assistance during the rule development process.
- **Meeting with Congressman Slaughter:** On Thursday, February 15, Jan Pickrel and Bob Bastian participated in a discussion with Congressman Slaughter's staff regarding EPA activities to research, monitor, and control the presence and release of antimicrobial bacteria to the environment. OW/OST and ORD staff also participated in the conference call.
- **Meeting with CDC:** On Tuesday, February 20, Jan Pickrel and Bob Bastian shared information with CDC regarding CDC research projects on antimicrobial resistance as it relates to sewage, hospital wastewater (biofilms, amplification, and resistance in drains traps, and effluent), wastewater in general, and wastewater treatment. CDC is finalizing 2 reports for publication this FY, and is also preparing issuance of new research grants.

#### Rural Branch

- Next Tuesday, February 27, Food and Water Watch and other environmental groups will meet with WPD members by conference call to discuss their environmental concerns with CAFOs. OECA and OGC staff are attending as well. Final agenda is TBD. (Brennan, Molloy, Utting, Bonnelycke)
  - Rural Branch members are attending the Aquaculture America 2018 conference this week, including participating in a "federal town hall" panel discussion with other members of the federal Interagency Workgroup on Aquaculture (IWG-A). (Molloy, Jones)
-



## State & Regional Branch

- **R9 WET Litigation (Supreme Court Favorable Decision):** On February 20, 2018, EPA was notified of the Supreme Court's decision to deny a writ of certiorari for the *Southern California Alliance of Publicly Owned Treatment Works (SCAP) v. EPA*, No. 14-74047 (9<sup>th</sup> Circuit) case. Therefore, the plaintiffs' petition to the Supreme Court to review the lower court's decision is denied. The effect of the denial is to sustain the Ninth Circuit's April 2017 decision that SCAP lacked jurisdiction to challenge an EPA Region 9 objection letter for two draft California NPDES state-issued permits. The Ninth Circuit concluded that when a State has NPDES permitting authority, "[a]n objection by EPA to a draft state permit is merely an interim step in the state permitting process," and is not itself subject to review in the federal courts of appeals under CWA Section 509(b)(1)(E) or (F). (Laura Phillips)

## Water Infrastructure Division

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### WIRFC

- This week the Spring Environmental Financial Advisory Board (EFAB) meeting is being held in DC. The purpose of this meeting is to hear from informed speakers on environmental finance issues, proposed legislation, and EPA priorities; to discuss activities, progress, and preliminary recommendations with regard to current EFAB work projects; and to consider requests for assistance from EPA program offices. Speakers at this meeting include David Bloom and Alex Herrgott (CEQ), and during the meeting we will also recognize the achievements of Mike Shapiro and departing Board members.

### CWSRF Branch

- The SRF Branch finalized the SRF State Customizable brochure this week. The brochure was developed as part of the Marketing and Outreach Subworkgroup—several states requested that EPA develop a brochure that states could use to promote their programs. States can customize the brochure to meet the needs of their program—including adding their state logo, changing the interest rate, changing eligible project types, and more. A users guide was also developed that gives suggestions for language that states may want to use based on surveys and focus groups held in several states.
- The Activity Update on Programmatic Financing in the CWSRF program was posted on our website.

### WaterSense Branch

- 2/21-23 – Veronica Blette is attending the AWWA/WEF Utility Management Conference in San Antonio. She is organizing and moderating a Utility Leadership Forum session on *Sustainable Rates: Balancing Revenue and Resource Efficiency*. Panelists are from the Alliance for Water Efficiency, San Antonio Water System, Westminster (CO) Dept of Public Works and Utilities, and Tucson Water.
- 2/22 – Jonah Schein is attending a meeting of the water efficiency task group for the ASHRAE 189.1 Standard for High Performing Green Buildings to provide an overview of the WaterSense Water Budget Tool which can be used to help design a water-efficient landscape.

- 2/25-28 – Jonah Schein and Olga Cano are attending the RESNET Building Performance Conference (an event popular with stakeholders in the building industry). They are holding a workshop on the notice of intent for revising the new homes program on 2/25 and will also be speaking in two sessions during the conference.

## Weekly Ag Advisor Calls

Discussion Summary (Nov-Dec 2017): *How can we make coordination and communications most effective between the Senior Ag Advisor and Regional Ag Advisors?*

Improving Internal Communications on Ag

# Ex. 5 Deliberative Process (DP)

Focus of weekly calls:

# Ex. 5 Deliberative Process (DP)

Centralizing Info (TPs, events, factsheets, etc.):

# Ex. 5 Deliberative Process (DP)

## Events

- New [ [HYPERLINK "https://usepa-my.sharepoint.com/personal/mortensen\\_ginah\\_epa\\_gov/Documents/EPA%20National%20Ag%20Center/Ag%20Events%20%26%20Meetings.docx?d=w9b7870514e7148988d762122154eaceb&csf=1&e=7dea51e842e148b09e02de5942110dc0"](https://usepa-my.sharepoint.com/personal/mortensen_ginah_epa_gov/Documents/EPA%20National%20Ag%20Center/Ag%20Events%20%26%20Meetings.docx?d=w9b7870514e7148988d762122154eaceb&csf=1&e=7dea51e842e148b09e02de5942110dc0) ] sheet in [ [HYPERLINK "https://usepa-my.sharepoint.com/personal/mortensen\\_ginah\\_epa\\_gov/Documents/EPA%20National%20Ag%20Center?csf=1&e=8977b954250a4c24b9af25796f010938"](https://usepa-my.sharepoint.com/personal/mortensen_ginah_epa_gov/Documents/EPA%20National%20Ag%20Center?csf=1&e=8977b954250a4c24b9af25796f010938) ] – please feel free to use this table to share events.

- For those events that you are specifically requesting Jeff's attendance/speaking, please also email Hema to alert her (haven't gotten notifications to work from One Drive yet). (You can indicate priority/topic, etc. in the [ HYPERLINK "[https://usepa-my.sharepoint.com/personal/mortensen\\_ginah\\_epa\\_gov/Documents/EPA%20National%20Ag%20Center/Ag%20Events%20%26%20Meetings.docx?d=w9b7870514e7148988d762122154eaceb&csf=1&e=7dea51e842e148b09e02de5942110dc0](https://usepa-my.sharepoint.com/personal/mortensen_ginah_epa_gov/Documents/EPA%20National%20Ag%20Center/Ag%20Events%20%26%20Meetings.docx?d=w9b7870514e7148988d762122154eaceb&csf=1&e=7dea51e842e148b09e02de5942110dc0)" ] sheet.

#### Topics for Discussion:

*Q: Are there regular monthly/program office calls that would be best suited for some of these? Suggestions below.*

- 
- 
- 
- 

## Ex. 5 Deliberative Process (DP)

- CAFO REG PETITIONS/LEGAL MATTERS: CAFO regulation "petitions" and challenges – what challenges are we facing and how to best to ensure consistent approaches with national and regional petitions. For example: Food and Water Watch petition calling for overhaul of CAFO regulations, Environment Integrity Project petition to EPA to withdraw VA's NPDES CAFO program, and EPA's settlement Agreement with Chesapeake Bay Foundation to determine whether revisions to the federal CAFO regs are necessary to achieve the animal ag commitments for the Chesapeake Bay TMDL by June 30, 2018. ... *Schedule for a monthly CAFO Coordinators call?*

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- 

## Ex. 5 Deliberative Process (DP)

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## Ex. 5 Deliberative Process (DP)

- FRRCC:

- 

## Ex. 5 Deliberative Process (DP)

## **Ex. 5 Deliberative Process (DP)**

Message

---

**From:** Krissy Kasserman [kkasserman@fwwatch.org]  
**Sent:** 6/21/2018 11:45:16 PM  
**To:** Brennan, Ross [Brennan.Ross@epa.gov]  
**Subject:** Re: Follow-up from Feb. meeting

Hi Ross,

Thanks so much for the and no problem on the delay—I think we're both likely buried under work right now!

Please do keep me posted. I'll kick around potential topics for a next call with Tarah and follow up with you soon, and we look forward to meeting Sally! Thanks a bunch.

Krissy

---

**From:** "Brennan, Ross" <Brennan.Ross@epa.gov>  
**Date:** Wednesday, June 13, 2018 at 12:44 PM  
**To:** Krissy Kasserman <kkasserman@fwwatch.org>  
**Subject:** RE: Follow-up from Feb. meeting

Hi Krissy –

I apologize for not getting back to you earlier.

I did want to let you know I shared your attachment with the CAFO team (even before your reminder last week!) and I would like to discuss it with them further.

We are now under new leadership. Sally Gutierrez, formerly with EPA's Office of Research and Development, will be acting director of the Water Permits Division for at least a year. She replaces Deborah Nagle, who is still an acting office director in our Office of Standards and Technology, and Marcus Zobrist, who stepped into Deborah's role for a few months earlier this year. (Marcus participated in our most recent call with you.)

We have mentioned the petition and our calls to Sally a couple of times as we have briefed her on the array of issues our branch works on. I'd like to sit down with her soon for a more focused conversation on it, probably week after next. I can let you know how that goes and work with you on the most effective way to bring her into our next conversation with you.

Again, sorry for the silence. More soon.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Krissy Kasserman [mailto:kkasserman@fwwatch.org]  
**Sent:** Tuesday, June 05, 2018 12:08 PM  
**To:** Brennan, Ross <Brennan.Ross@epa.gov>  
**Subject:** FW: Follow-up from Feb. meeting

Hi Ross, hope this email finds you well. Just re-sending an update and materials from late last month. Looking forward to catching up with you regarding the petition and next steps. Thanks!

Krissy

---

**From:** Krissy Kasserman <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)>

**Date:** Monday, April 30, 2018 at 2:29 PM

**To:** "Brennan, Ross" <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>

**Cc:** Tarah Heinzen <[theinzen@fwwatch.org](mailto:theinzen@fwwatch.org)>

**Subject:** Follow-up from Feb. meeting

Hi Ross,

I apologize for the significant delay in providing these follow-up materials from our call in late February. Tarah Heinzen and I would like to submit the attached materials as promised on our last call and also in support of our petition for rulemaking. If you or anyone at EPA would like to further discuss any issues raised by the documents perhaps this could be the subject for our next call? Otherwise we are happy to propose additional topics for discussion, and thanks again for your willingness to continue this important dialogue. What do you think about reconvening sometime in the second half of June? Please let Tarah or me know what you think and if you have any questions regarding the attached. Thanks, and have a great day!

Best,

Krissy

-----  
**Krissy Kasserman**

National Factory Farm Campaigner

[Food & Water Watch](#) and [Food & Water Action](#)

O (919) 794-6381

**Ex. 6 Personal Privacy (PP)**

[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)

**Tarah Heinzen**

Staff Attorney

[Food & Water Watch](#) and [Food & Water Action](#)

O (202) 683-2457

**Ex. 6 Personal Privacy (PP)**

[theinzen@fwwatch.org](mailto:theinzen@fwwatch.org)

Message

---

**From:** Ziobro, Joseph [Ziobro.Joseph@epa.gov]  
**Sent:** 8/23/2018 3:04:57 PM  
**To:** Brennan, Ross [Brennan.Ross@epa.gov]  
**CC:** Utting, George [Utting.George@epa.gov]  
**Subject:** RE: Joseph - a brief summary of the FWW petition

Thanks Ross.

*Joseph Ziobro*

U.S. Environmental Protection Agency  
Office of Wastewater Management  
Washington, DC  
Phone: (202) 564-5376  
[ziobro.joseph@epa.gov](mailto:ziobro.joseph@epa.gov)

---

**From:** Brennan, Ross  
**Sent:** Thursday, August 23, 2018 11:02 AM  
**To:** Ziobro, Joseph <Ziobro.Joseph@epa.gov>  
**Cc:** Utting, George <Utting.George@epa.gov>  
**Subject:** Joseph - a brief summary of the FWW petition

Joseph, I'm sharing a brief summary of the FWW petition that you can plug into your backgrounder for Andrew. I'm also attaching the longer briefing document we used for Sally – not for distribution but just for your own reference as you spend more time on CAFO regulatory issues.

George, I invite you to take a look at this brief one-pager and offer suggestions to Joseph if you have them. This is in preparation for our discussion with Andrew today, where we will be presenting him with background on a range of issues that he might want to surface with Anna and the other politicals who will be attending the AADG meeting. The idea is just to let folks know of questions that the industry folks might raise, in order to avoid surprises at the meeting.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248



Message

---

**From:** Utting, George [Utting.George@epa.gov]  
**Sent:** 6/21/2018 2:22:25 PM  
**To:** Weiss, Kevin [Weiss.Kevin@epa.gov]; Clovis, Debora [Clovis.Debora@epa.gov]; Saxena, Juhi [Saxena.Juhi@epa.gov]; Schaner, Greg [Schaner.Greg@epa.gov]  
**CC:** Bathersfield, Nizanna [Bathersfield.Nizanna@epa.gov]; Brennan, Ross [Brennan.Ross@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]  
**Subject:** RE: Legal Deadlines Tracking

Kevin,

I imagine you have all of the withdrawal petitions (including Ohio?), so I have nothing to add as far as those are concerned.

We also have a petition for CAFO regs, from Food & Water Watch, that we received (to the best of my knowledge) in March 2017.

Ex. 5 Deliberative Process (DP)

## Ex. 5 Deliberative Process (DP)

George

**From:** Weiss, Kevin  
**Sent:** Wednesday, June 20, 2018 9:25 AM  
**To:** Clovis, Debora <Clovis.Debora@epa.gov>; Utting, George <Utting.George@epa.gov>; Saxena, Juhi <Saxena.Juhi@epa.gov>; Schaner, Greg <Schaner.Greg@epa.gov>  
**Cc:** Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>  
**Subject:** RE: Legal Deadlines Tracking

## Ex. 5 Deliberative Process (DP)

Thanks

Kevin

**From:** Clovis, Debora  
**Sent:** Wednesday, June 20, 2018 9:22 AM  
**To:** Weiss, Kevin <Weiss.Kevin@epa.gov>; Utting, George <Utting.George@epa.gov>; Saxena, Juhi <Saxena.Juhi@epa.gov>; Schaner, Greg <Schaner.Greg@epa.gov>  
**Subject:** Re: Legal Deadlines Tracking

## Ex. 5 Deliberative Process (DP)

Debora Clovis  
Water Permits Division (M4203)  
Municipal Branch

202 564-0739

Hours:

M 9:00 am - 1:00 pm (telework) (off duty 1-5 pm)  
T 8:30 am - 5:00 pm  
W 8:30 am - 5:00 pm  
Th Off-Duty  
F 8:30 am - 5:00 pm

---

**From:** Weiss, Kevin  
**Sent:** Wednesday, June 20, 2018 7:32:16 AM  
**To:** Utting, George; Saxena, Juhi; Schaner, Greg; Clovis, Debora  
**Subject:** Fwd: Legal Deadlines Tracking

Sent from my iPhone

Begin forwarded message:

**From:** "Weiss, Kevin" <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>  
**Date:** June 19, 2018 at 6:36:30 PM EDT  
**To:** "Zobrist, Marcus" <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>, "Kloss, Christopher" <[Kloss.Christopher@epa.gov](mailto:Kloss.Christopher@epa.gov)>, "Brennan, Ross" <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>  
**Cc:** "Bathersfield, Nizanna" <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>  
**Subject:** FW: Legal Deadlines Tracking

## Ex. 5 Deliberative Process (DP)

---

**From:** Schroer, Lee  
**Sent:** Tuesday, June 19, 2018 6:25 PM  
**To:** Siciliano, CarolAnn <[Siciliano.CarolAnn@epa.gov](mailto:Siciliano.CarolAnn@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>; Levine, MaryEllen <[levine.maryellen@epa.gov](mailto:levine.maryellen@epa.gov)>; Wehling, Carrie <[Wehling.Carrie@epa.gov](mailto:Wehling.Carrie@epa.gov)>  
**Cc:** Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Sylvester, Francis <[Sylvester.Francis@epa.gov](mailto:Sylvester.Francis@epa.gov)>  
**Subject:** RE: Legal Deadlines Tracking

Kevin,

## Ex. 5 Deliberative Process (DP)

Lee C. Schroer  
Office of General Counsel (Mail Code 2355A)  
Room 7518C William Jefferson Clinton Bldg North  
Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
Tel: 202-564-5476

---

**From:** Weiss, Kevin  
**Sent:** Tuesday, June 19, 2018 5:40 PM  
**To:** Siciliano, CarolAnn <[Siciliano.CarolAnn@epa.gov](mailto:Siciliano.CarolAnn@epa.gov)>  
**Cc:** Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Sylvester, Francis <[Sylvester.Francis@epa.gov](mailto:Sylvester.Francis@epa.gov)>  
**Subject:** FW: Legal Deadlines Tracking

## Ex. 5 Deliberative Process (DP)

Thanks

Kevin

**From:** "Best-Wong, Benita" <[Best-Wong.Benita@epa.gov](mailto:Best-Wong.Benita@epa.gov)>  
**Date:** June 19, 2018 at 9:27:50 AM EDT  
**To:** OW Office Directors <[OWOfficeDirectors@epa.gov](mailto:OWOfficeDirectors@epa.gov)>, OW Deputy Office Directors <[OWDeputyOfficeDirectors@epa.gov](mailto:OWDeputyOfficeDirectors@epa.gov)>  
**Cc:** "Kitamura, Louise" <[Kitamura.Louise@epa.gov](mailto:Kitamura.Louise@epa.gov)>, "Neugeboren, Steven" <[Neugeboren.Steven@epa.gov](mailto:Neugeboren.Steven@epa.gov)>  
**Subject:** FW: Legal Deadlines Tracking

## Ex. 5 Deliberative Process (DP)

Regards,  
Benita

Benita Best-Wong

Acting Principal Deputy Assistant Administrator  
Office of Water  
US EPA  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
202-566-1159

---

**From:** Burke, Marcella

**Sent:** Wednesday, June 06, 2018 2:34 PM

**To:** Leadership\_Assistant\_Administators

<Leadership\_Assistant\_Administators@epa.gov>; Leadership\_Regional\_Administrators

<Leadership\_Regional\_Administrators@epa.gov>;

Leadership\_Deputy\_Assistant\_Administrators

<Leadership\_Deputy\_Assistant\_Administrators@epa.gov>;

Leadership\_Deputy\_Regional\_Administrators

<Leadership\_Deputy\_Regional\_Administrators@epa.gov>;

Leadership\_Assistant\_Administators <Leadership\_Assistant\_Administators@epa.gov>

**Cc:** Darwin, Henry <darwin.henry@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>;

Leopold, Matt (OGC) <Leopold.Matt@epa.gov>; Baptist, Erik <Baptist.Erik@epa.gov>;

Schwab, Justin <Schwab.Justin@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>;

Minoli, Kevin <Minoli.Kevin@epa.gov>; Packard, Elise <Packard.Elise@epa.gov>; DeBell,

Kevin <debell.kevin@epa.gov>; Grzegozewski, Nicholas

<Grzegozewski.Nicholas@epa.gov>

**Subject:** Legal Deadlines Tracking

**Importance:** High

Good afternoon –

## Ex. 5 Deliberative Process (DP)

## **Ex. 5 Deliberative Process (DP)**

Thanks,  
Marcella

**Marcella Burke**  
Deputy General Counsel  
Office of General Counsel  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave. NW  
Washington, DC 20460  
(202) 564-1609  
[burke.marcella@epa.gov](mailto:burke.marcella@epa.gov)

**Chesapeake Bay Settlement Agreement Commitment  
Considering Modifications to CAFO Regulations**

**Communications Strategy**

**DATE:** May 9, 2018

**ACTION:** Under the revised Chesapeake Bay Foundation settlement agreement, EPA committed to “assess, by no later than June 30, 2018, whether revisions to [federal] CAFO regulations . . . are necessary to achieve the objectives of the animal agriculture commitments in the [watershed implementation plans (WIPs)] as part of the overall Chesapeake Bay TMDL.”

Since 2010, EPA has reviewed progress through analyses and assessments, and has determined that changes to federal CAFO regulations are not necessary to achieve the animal agriculture pollution reduction goals for Chesapeake Bay.

## Ex. 5 Deliberative Process (DP)

**MATERIALS:**

- Stakeholder notifications
- Desk Statement

[ PAGE \\* MERGEFORMAT ]

## STAKEHOLDER NOTIFICATIONS

### In advance of release:

# Ex. 5 Deliberative Process (DP)

### On day of release:

1. EPA Region 3 Water Protection Division will post link on the Chesapeake Bay TMDL website: [ HYPERLINK "<https://www.epa.gov/chesapeake-bay-tmdl/sector-specific-epa-oversight-chesapeake-bay-watershed>" ]
2. OWM will notify external organizations:
  - Animal Agriculture Discussion Group. Andrew Sawyers will send an e-mail to members of the AADG. Content will generally follow the language of the desk statement (below).
  - Association of Clean Water Administrators. Ross Brennan will call Sean Rolland.
  - Food and Water Watch. Sally Gutierrez or Ross Brennan will call Tarah Heinzen.
3. Jenny Molloy will send an e-mail to Regional and HQ CAFO coordinators. Content will generally follow the language of the desk statement (below).

### DESK STATEMENT:

# Ex. 5 Deliberative Process (DP)



# **Ex. 5 Deliberative Process (DP)**

**Chesapeake Bay Settlement Agreement Commitment  
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## Ex. 5 Deliberative Process (DP)

**MATERIALS:**

- Stakeholder notifications
- Desk Statement

## STAKEHOLDER NOTIFICATIONS

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### DESK STATEMENT:

# Ex. 5 Deliberative Process (DP)

## **Ex. 5 Deliberative Process (DP)**

**Chesapeake Bay Settlement Agreement Commitment  
Considering Modifications to CAFO Regulations**

**Communications Strategy**

**KEY MESSAGES**

Comprehensive and well-implemented CAFO permit programs are an important component of reducing animal agriculture pollution, but they are not the only component. Of critical importance is for each state to have strong state programs to address animal operations that are not covered under the CAFO program and sufficient funding to implement agricultural conservation practices called for in the state Watershed Implementation Plans.

## **Ex. 5 Deliberative Process (DP)**

**STAKEHOLDER NOTIFICATIONS**

## **Ex. 5 Deliberative Process (DP)**

# Ex. 5 Deliberative Process (DP)

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1. EPA Region 3 Water Protection Division will post link on the Chesapeake Bay TMDL website: [ HYPERLINK "<https://www.epa.gov/chesapeake-bay-tmdl/sector-specific-epa-oversight-chesapeake-bay-watershed>" ]
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# Ex. 5 Deliberative Process (DP)

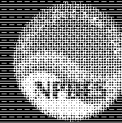
# NPDES Animal Agriculture Activities

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Water Permits Division



Briefing for David Ross and Anna Wildeman  
Assistant Administrator and  
Deputy Assistant Administrator  
Office of Water  
[REDACTED], 2018



# Briefing Outline



Regulatory responsibilities  
under CWA and NPDES



Background information

- Industry Practices
- Water Quality Impacts



Implementation support



Collaborative activities with  
animal ag stakeholders

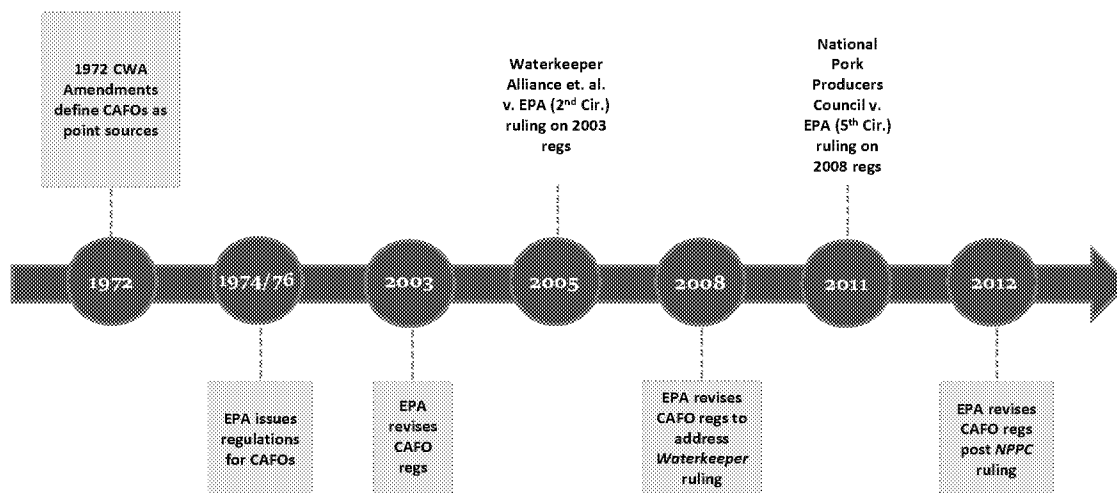






## Regulatory Milestones for CAFOs

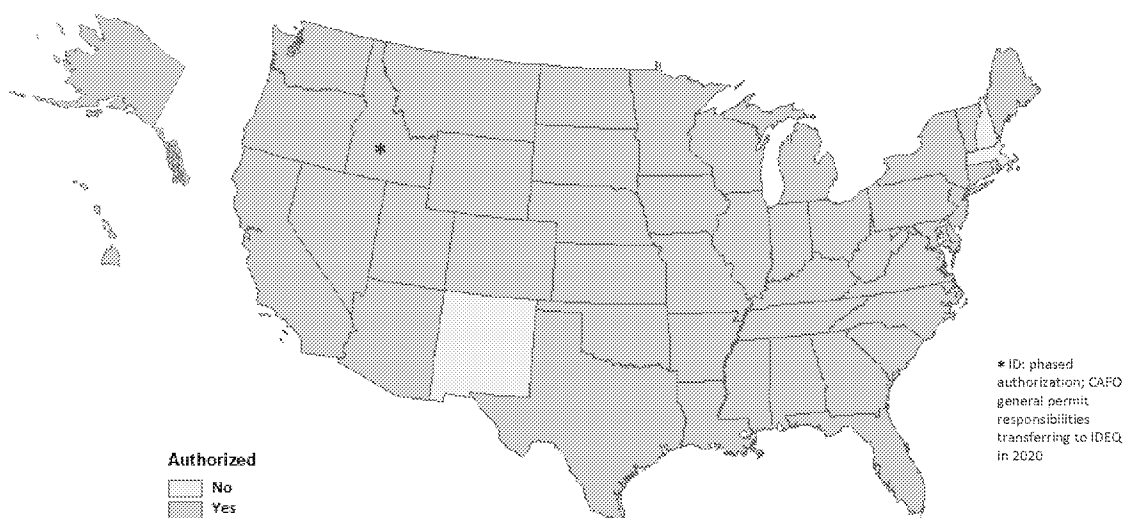
1972 Amendments to Federal Water Pollution Control Act – “Clean Water Act” – define CAFOs as point sources of pollution subject to regulation.



3/8/2017: EPA received petition from Food & Water Watch and 33 other organizations to revise CAFO regulations to address implementation challenges.



## Supporting State CAFO Programs



### EPA Working in Concert with the States to:

- |                                                          |                                                                      |
|----------------------------------------------------------|----------------------------------------------------------------------|
| ✓ Issue permits in non-authorized states and territories | ✓ Conduct inspections at select facilities                           |
| ✓ Review state authorizations and programs               | ✓ Provide trouble-shooting assistance as requested by state programs |

3

EPA implements in MA, NH, NM, and ID, as well as territories other than VI

3



## What is an AFO/CAFO?

- AFOs are agricultural operations where animals are kept and raised in confined situations
  - Animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and
  - Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

- CAFOs:

- Large CAFOs based on size alone
- Small and medium operations may also be CAFOs based on size and other conditions

| Animal Sector   | Size thresholds (number of animals) |                  |
|-----------------|-------------------------------------|------------------|
|                 | Large CAFOs                         | Medium CAFOs     |
| Beef            | 1,000 or more                       | 300 - 999        |
| Dairy           | 700 or more                         | 200 - 699        |
| Swine (>55lbs.) | 2,500 or more                       | 750 - 2,499      |
| Layers          | 82,000 or more                      | 25,000 - 81,199  |
| Broilers        | 125,000 or more                     | 37,500 - 124,499 |

4

(~25%) Percentage of CAFOs that don't discharge. Medium Operations: must have discharges through man-made conveyances or have animals in contact with WOUS.

Small Operations: may be designated for permit coverage if demonstrated to be significant contributors of pollution



## Important Considerations

- CAFOs must have NPDES permit coverage if they discharge pollutants into waters of the U.S.
- Ag Stormwater Exemption for precipitation-related discharges:
  - where manure, litter, or process wastewater is land-applied in accordance with site-specific nutrient management practices that ensure appropriate agricultural utilization of the nutrients.

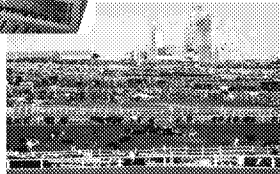
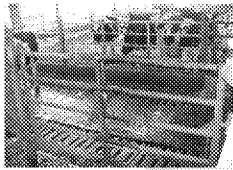
5

### **Ex. 5 Deliberative Process (DP)**

5



## CAFOs: Regulatory Requirements

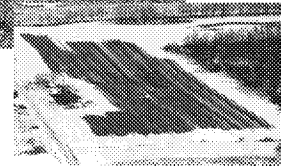


Production area - animal confinement area, manure storage area, raw materials storage area, and waste containment areas:

- NPDES permits authorize certain discharges (e.g., 25-year 24-hour design storm)

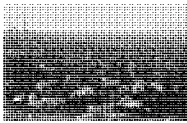
Land application area - where manure is applied:

- Must land-apply manure in accordance with terms of nutrient management plan (NMP)





## Ex. 5 Deliberative Process (DP)



Beef



Swine



Dairy cows



Broilers

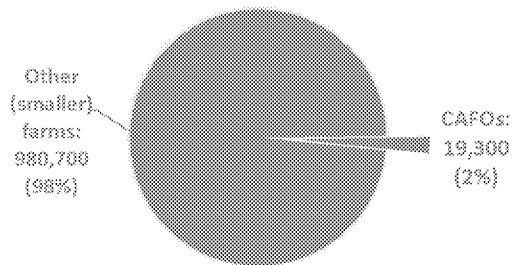


Egg layers

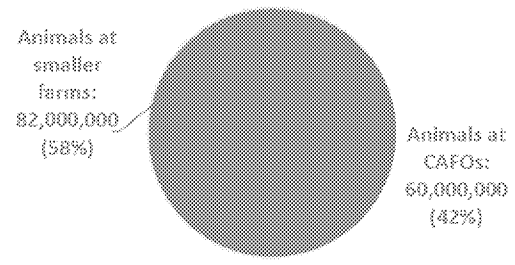


# Livestock Concentration

U.S. Livestock Farms and CAFOs



Animals at CAFOs



Source: USDA 2012 Census of Agriculture

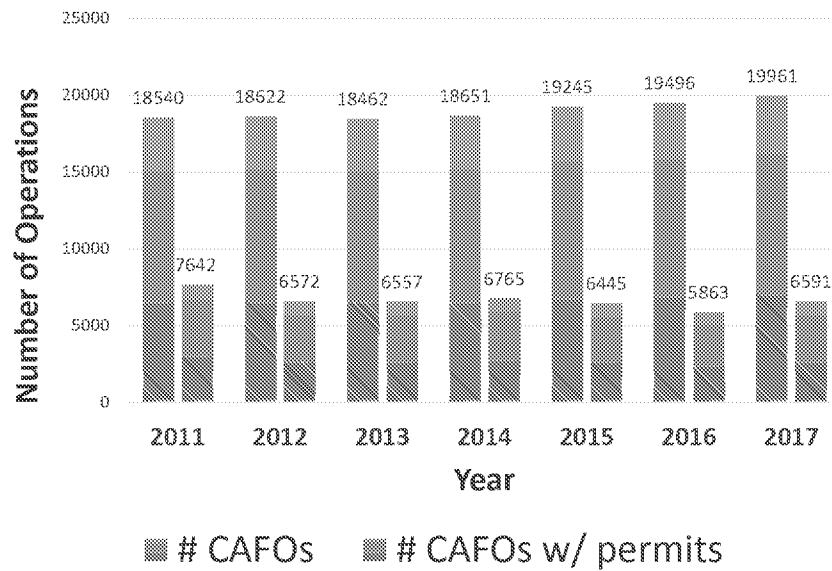
Total Livestock Farms: ~1 million

Note: Figure excludes beef operations that do not meet USDA's definition of an operation with "cattle on feed"

Total estimated animals  
in inventory @ U.S. farms: 142,000,000



## CAFOs and NPDES Permits



From 2011 to 2017, the number of CAFOs increased, while the number of NPDES permits issued to CAFOs decreased.



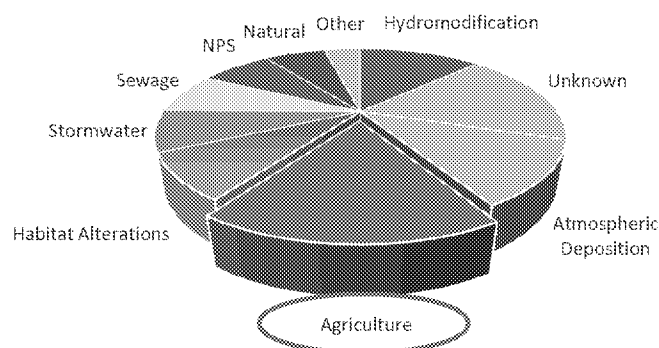


## Water Quality Drivers

- Nutrients and pathogens from animal agriculture often contribute to water quality impairments, algal blooms, fish kills, and other impacts.
- Agriculture (animal and crop) is considered a major source of impairment, with 142,040 miles of rivers and streams threatened or impaired.

(Based on State water quality assessment data reported to EPA)

### Probable Sources of Impairment in Assessed Streams and Rivers



EPA, ATTAINS database, 2017 (303(d))

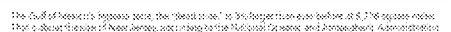
10



Everyone depends on clean water for their health and livelihoods.

## Largest Recorded "Dead Zone" calls for Nutrient Loss Reduction

\*\*\*\*\*



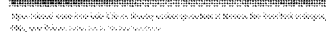
<sup>10</sup>The export had one of the longest routes ever recorded: across the Atlantic, to the east coast of India, and the Red Sea, to a large delivery of cargoes, during the initial month, which included the rice-cum-bean and rice-cum-soybean. (Mitsui, 1911; Japanese documents in [84]) and 1846/1847 also had the longest.

AgWeb, August 7, 2017

69783985

## Behind Toledo's Water Crisis, a Long-Troubled Lake Erie

**00000000000000000000**

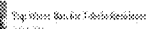


**TOLEDO, Ohio** — It took a seemingly endless list of crises and the loss of billions under the aegis of different presidents to bring home what education and government officials in this part of the country have been saying for years: Lake Erie is in trouble, and getting worse by the year.

Flanked by sides of phagocytes washed from fibrinized lesions, corneal keratitis and leishmaniasis, the most intensely developed of the linear lakes is immunoglobulin staining each monomer by thick coats of stain, much of it

New York Times, August 4, 2014

22552022



Don't let your 3-year-old struggle with math. Let's take the first step toward helping your child learn to count.



 **CC BY-SA**

\*\*\*\*\* Source: iStock

**Abstract** *Thyridopteryx* is a new genus of the family Thyridopteridae, subfamily Thyridopterinae, from the Lower Permian of the South African Karoo Basin.

**Source:** *Interview, 2014*  
 During the 1990s, 2000s, and 2010s, the number of people who were involved in the 1980s was not as high as it was in the 1990s and 2000s. It was not as high as it was in the 1990s and 2000s.

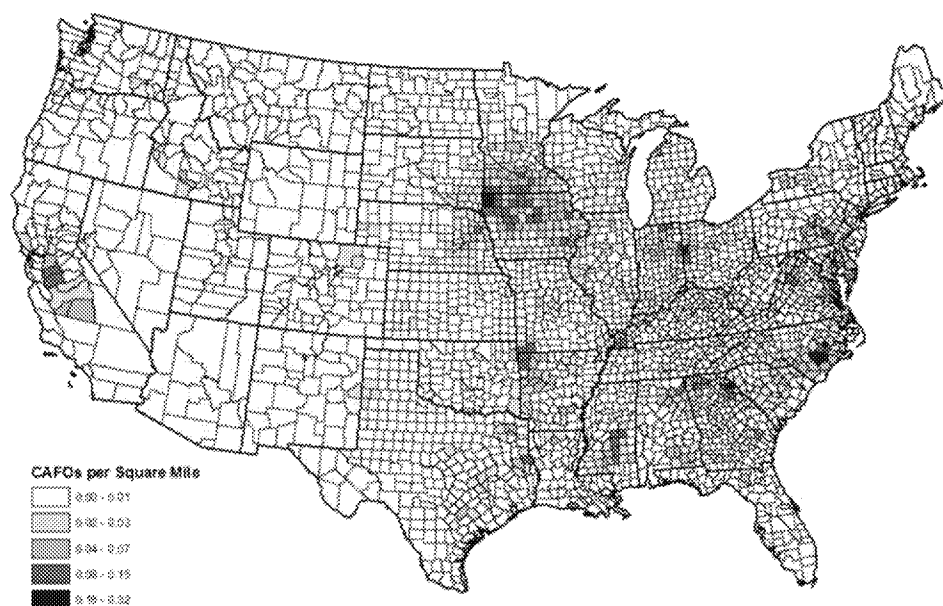
**Abstract**

**Abstract** The purpose of this study was to determine whether there were differences in the prevalence of self-reported depression between men and women who had been exposed to violence during childhood and those who had not. Data from the National Longitudinal Study of Adolescent Health (*N = 9,800*) were used. Results showed that exposure to violence during childhood was associated with higher rates of self-reported depression among both men and women. However, the association was stronger for women than for men.

[View all posts by J. J. McHugh](#)



## Large CAFOs per Square Mile by County



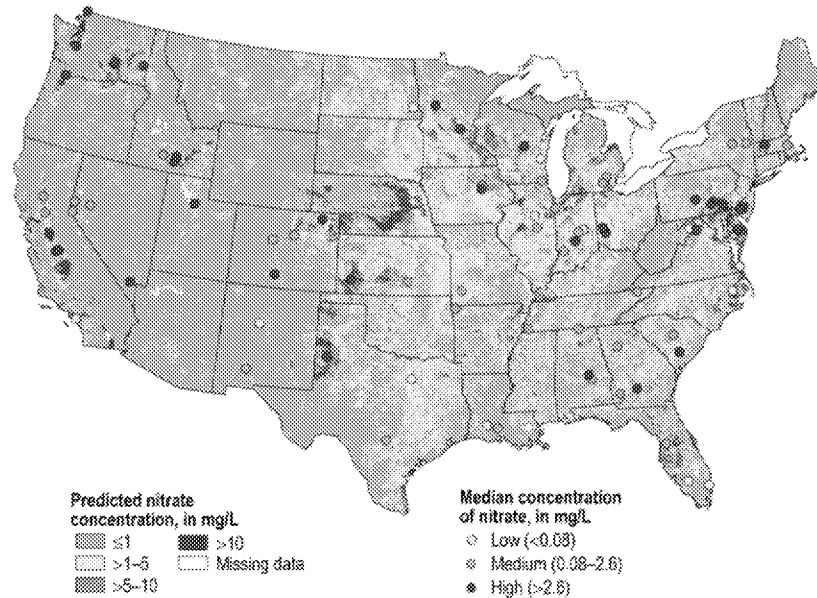
Source: USDA 2012 Census of Agriculture; analyzed and mapped by US EPA

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## Nitrates in Streams and Groundwater

Fertilizers and animal manure, which are both rich in nitrogen and phosphorus, are the primary sources of nutrient pollution from agricultural sources.



USGS, Nitrate concentrations, 1992-2004

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Source for nutrient pollution: <https://www.epa.gov/nutrientpollution/sources-and-solutions-agriculture>



## Summary of Water Quality Issues

### Water quality:

- 12% of manured acres fall within the jurisdiction of NPDES program.
- Some CAFOs export as much as 70 percent of manure off-farm, where it is not regulated under NPDES. (USDA, 2009. *The Transformation of U.S. Livestock Agriculture Scale, Efficiency, and Risks.*)
- In many areas, manure is applied in excess of crop needs. (USDA, 2012. *Assessment of the Effects of Conservation Practices on Cultivated Cropland in the Upper Mississippi River Basin*)
- Recommended manure application rates are agronomic rather than water quality-based.

Therefore must apply creative approaches to:

- Support state implementation efforts
- Support partnership activities with other ag stakeholders

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## Ex. 5 Deliberative Process (DP)





## Support for State, Tribal, and Regional Efforts to Improve Manure Management

- Compendium of Effective State Approaches for Manure Management
  - Showcases examples of state program features that promote good manure management at AFOs.
- Provide support to State, Tribal and Regional programs via contractor technical assistance to address specific issues. In 2016 and 2017:
  - Kewaunee County, Wisconsin
  - Western Lake Erie Basin
  - Yakama Tribe, Washington State
  - Lake Champlain, Vermont
- Nutrient Management Planning Technical Forum in New Mexico (Fall 2018)
  - Workshop to support State permit writers and inspectors implementing NPM requirements

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## Animal Agriculture Discussion Group (AADG)

### What is the Animal Agriculture Discussion Group (AADG)?

- Established by OWM in 2013
- Involves all major animal ag. industry associations, USDA, States, universities, extension
- 8 in-person meetings held to date; Next meeting Sept. 5-7 in Chicago area

### **Ex. 5 Deliberative Process (DP)**

#### Collaborative Projects Developed by AADG

##### *Animal Ag. Education Project*

- EPA, NRCS, and AADG are developing an educational program to facilitate two-way understanding of animal feeding operations and water quality protection measures.
  - Overview Module and NRCS Conservation Launched in 2017 and 2018 respectively

##### *Brochure: Beneficial Uses of Manure and Environmental Protection*

- A two-page outreach piece developed with agriculture industry organizations.

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### **Ex. 5 Deliberative Process (DP)**

17



## Additional Animal Agriculture Initiatives

### U.S. Poultry & Egg Association videos on water quality protection



- Video series on environmental management produced for poultry producers by the U.S. Poultry & Egg Association with support from EPA. Released in 2016.
- *Why EPA and the States Inspect Farms* video that removes the mystery behind EPA and state inspections and demonstrates what poultry and egg farms can expect if their farms are inspected.

### Participation in individual sector stewardship awards



- U.S. Poultry & Egg Family Farm Awards
- Innovation Center for U.S. Dairy's Sustainability Awards

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# Nutrient Recycling Challenge



## Goals:

- Accelerate development of nutrient recovery technologies that dairy and swine farms can adopt, providing environmental and economic benefit.
- Raise awareness of issues/opportunities related to nutrients and manure management.
- Connect innovators with agricultural stakeholders.
- Stimulate markets for products generated by nutrient recovery technologies.

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EPA and twenty partners are hosting a competition to find affordable technologies that recycle nutrients from dairy and swine manure and create valuable products.



## Nutrient Recycling Challenge (cont.)

### **Phase I (completed Spring 2016):**

- 75 concept papers received from around the world
- 34 teams selected to continue to Phase II and invited to D.C. Summit at Eisenhower Executive Office Building and World Wildlife Fund U.S.

### **Phase II (completed Fall 2016)**

- Program of incubation and support in which innovators were invited to develop technology designs based on submitted concepts
- Phase II features included: 1-on-1 meetings with technical experts and potential end-users; Webinars on technical and economic aspects of technology production; Annotated bibliography on peer-reviewed resources relevant to nutrient recovery technologies

### **Phase III (under development)**

- Developing MOU with The Water Research Foundation to improve innovator access to technology evaluation support and communities of practice

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## Collaborations with USDA and Academia

### Collaborations with USDA

MOU with NRCS

Support Conservation Innovation Grant (CIG)  
Program

Monthly OW-NRCS Meetings

NRCS, Agricultural Research Station (ARS) and  
Rural Development are partners in the Nutrient  
Recycling Challenge

NRCS participates in the AADG

### Universities Participating in the Nutrient Recycling Challenge

Iowa State University

Marquette University

Michigan State University

North Carolina State University

North Dakota State University

Purdue University

SUNY College of Environmental Science and Forestry

Washington State University

American Society of Agricultural and Biological  
Engineers



## Ex. 5 Deliberative Process (DP)

Message

---

**From:** Kupchan, Simma [Kupchan.Simma@epa.gov]  
**Sent:** 7/11/2018 2:39:48 PM  
**To:** Brennan, Ross [Brennan.Ross@epa.gov]; Utting, George [Utting.George@epa.gov]  
**CC:** Levine, MaryEllen [levine.maryellen@epa.gov]  
**Subject:** RE: FWW briefer - Final version with a few tweaks

All sounds good. Inviting Charlene is fine with me.

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
202-564-3105  
WJC North #7426Q

---

**From:** Brennan, Ross  
**Sent:** Wednesday, July 11, 2018 10:37 AM  
**To:** Kupchan, Simma <Kupchan.Simma@epa.gov>; Utting, George <Utting.George@epa.gov>  
**Cc:** Levine, MaryEllen <levine.maryellen@epa.gov>  
**Subject:** FWW briefer - Final version with a few tweaks

Made a few more tweaks, and unless you folks have further comments I think it's good to go for today.

Very much appreciate Simma's quick fleshing out of page one.

**Ex. 5 Deliberative Process (DP)**

## Ex. 5 Deliberative Process (DP)

You guys OK if I invite intern Charlene (if she's available/interested)? Not sure how many meetings like this she gets to sit in and it might liven up her day

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Kupchan, Simma  
**Sent:** Tuesday, July 10, 2018 4:16 PM  
**To:** Utting, George <Utting.George@epa.gov>; Brennan, Ross <Brennan.Ross@epa.gov>  
**Cc:** Levine, MaryEllen <levine.maryellen@epa.gov>  
**Subject:** RE: Brfg document for Sally on FWW petition

## Ex. 5 Attorney Client (AC)

Simma Kupchan  
EPA Office of General Counsel

Water Law Office  
202-564-3105  
WJC North #7426Q

---

**From:** Utting, George  
**Sent:** Tuesday, July 10, 2018 4:10 PM  
**To:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>; Brennan, Ross <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>  
**Cc:** Levine, MaryEllen <[levine.maryellen@epa.gov](mailto:levine.maryellen@epa.gov)>  
**Subject:** RE: Brfg document for Sally on FWW petition

# Ex. 5 Attorney Client (AC)

---

**From:** Kupchan, Simma  
**Sent:** Tuesday, July 10, 2018 3:58 PM  
**To:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Brennan, Ross <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>  
**Cc:** Levine, MaryEllen <[levine.maryellen@epa.gov](mailto:levine.maryellen@epa.gov)>  
**Subject:** RE: Brfg document for Sally on FWW petition

# Ex. 5 Attorney Client (AC)

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
202-564-3105  
WJC North #7426Q

---

**From:** Utting, George  
**Sent:** Tuesday, July 10, 2018 2:28 PM  
**To:** Brennan, Ross <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>; Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>  
**Subject:** RE: Brfg document for Sally on FWW petition

Sorry guys . . . use this draft.

---

**From:** Utting, George  
**Sent:** Tuesday, July 10, 2018 2:23 PM



**To:** Ross Brennan <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>; Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>

**Subject:** Brfg document for Sally on FWW petition

For tomorrow's briefing for Sally on the petition.

Ross did the main document. I added the bullets on our thinking about each of the items for which FWW is requesting relief.

Let me know what you think .

Message

---

**From:** Utting, George [Utting.George@epa.gov]  
**Sent:** 7/10/2018 6:27:45 PM  
**To:** Brennan, Ross [Brennan.Ross@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]  
**Subject:** RE: Brfg document for Sally on FWW petition  
**Attachments:** Summary - FWW Petition \_ gu.docx

Sorry guys . . . use this draft.

---

**From:** Utting, George  
**Sent:** Tuesday, July 10, 2018 2:23 PM  
**To:** Ross Brennan <Brennan.Ross@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Subject:** Brfg document for Sally on FWW petition

For tomorrow's briefing for Sally on the petition.

Ross did the main document. I added the bullets on our thinking about each of the items for which FWW is requesting relief.

Let me know what you think .

## Overview – March 8, 2017 CAFO Rulemaking Petition from Food & Water Watch and Others

### Petitioners:

Food and Water Watch  
Arkansas Rights Coalition  
Assateague Coastal Trust (MD)  
Association of Irrigated Residents (CA)  
Buffalo River Watershed Alliance (AR)  
Center for Biological Diversity  
Center for Food Safety  
Concerned Citizens Against Industrial CAFOs (MD)  
Dakota Rural Action (SD)  
Dallas County Farmers and Neighbors (IA)  
Des Moines Water Works (IA)  
Dodge County Concerned Citizens (MN)  
Don't Waste Arizona  
Environmental Integrity Project  
Grand Riverkeeper (OK)  
Helping Others Maintain Environmental Standards (IL)  
Illinois Citizens for Clean Air and Water (IL)  
Institute for Agriculture and Trade Policy

Interfaith Worker Justice (NM)  
Iowa Citizens for Community Improvement  
Jefferson County Farmers and Neighbors (IA)  
Johns Hopkins Center for a Livable Future  
Kewaunee Citizens Advocating Responsible  
Environmental Stewardship (WI)  
Land Stewardship Project (MN)  
Midwest Environmental Advocates (WI)  
Missouri Rural Crisis Center  
Moms Across America Eastern Shore (MD)  
Montgomery Township Friends of Family Farms (PA)  
North Carolina Environmental Justice Network  
Ozark River Stewards (AR)  
Patuxent Riverkeeper (MD)  
Poweshiek Community Action to Restore  
Environmental Stewardship (IA)  
Preserve Our Shore Accomack County (VA)  
Rio Valle Concerned Citizens (NM)

### Relief Sought – Petitioners ask EPA to:

1. Establish an evidentiary presumption that certain CAFOs actually discharge

**Ex. 5 Deliberative Process (DP)**

2. Re-interpret the agricultural stormwater exemption so that no discharges resulting from CAFO activities are exempt as non-point source pollution

**Ex. 5 Deliberative Process (DP)**

3. Ensure that integrators who meet the CWA definition of owner or operator are co-permitted with contract producers

**Ex. 5 Deliberative Process (DP)**

4. Revise the regulatory definitions of “medium CAFO” and “production area” and revise designation authorities

## **Ex. 5 Deliberative Process (DP)**

5. Require water quality monitoring in all CAFO NPDES permits

## **Ex. 5 Deliberative Process (DP)**

6. EPA should revise the CAFO effluent guidelines

## **Ex. 5 Deliberative Process (DP)**

### **Chronology**

3/8/2017: FWW and 34 other organizations file petition

5/17/2017: Initial meeting with Deborah Nagle; agrees to dialogue.

7/5/2017: FWW leads hold planning call with Deborah Nagle to map next steps

8/30/2017. Call with Deborah Nagle and petitioner groups

2/27/2018. Call with Marcus Zobrist (as acting DD) and petitioner groups

Observations about calls

## **Ex. 5 Deliberative Process (DP)**

**Internal Background Information for Sept. 5-7 Animal Ag. Discussion Group Meeting**

# **Ex. 5 Deliberative Process (DP)**

# Ex. 5 Deliberative Process (DP)

## **5. CAFO NATIONAL COMPLIANCE INITIATIVE** (from Susan Bodine memo August 21, 2018)

Modification to “Prevent Animal Waste from Contaminating Surface and Ground Water”: Starting in FY 2019, OECA intends to return this NEI to our core program rather than keep it as a national priority. As part of the core program, in collaboration with authorized state programs, regions will continue to conduct inspections and enforcement actions to address serious violations in this area, focusing on the Strategic Plan goal to address water quality impairments.

### **TP: Why is EPA terminating the Animal Waste NEI early?** (from Hema)

EPA’s NEI focused on “Preventing Animal Waste from Contaminating Surface and Ground Water” is being terminated at the end of FY 2018, one year ahead of the end of the current NEI cycle, and returned to EPA’s core compliance assurance program. Enforcement opportunities under this NEI were limited as a result of court rulings that narrowed the universe of facilities required to be permitted. In addition, most enforcement in this area is administrative, not judicial. These facts make it more appropriate to address environmental problems arising from animal waste as part of the core enforcement program. When returned to the core program, EPA

regions, in collaboration with authorized state programs, will continue to conduct inspections and enforcement actions to address serious violations in this area, focusing on the Strategic Plan goal to address water quality impairments.

#### **6. E-REPORTING RULE ([ HYPERLINK "<https://www.epa.gov/compliance/npdes-ereporting>" ])**

Phase 2 – Starting on **December 21, 2020**, regulated entities that currently submit certain other NPDES reports will begin submitting these reports electronically, instead of on paper. Reports covered in the second phase include Notices of Intent to discharge in compliance with an NPDES general permit, Biosolids/Sewage Sludge Annual Program Reports submitted to state governments, and a number of other NPDES program reports, including CAFOs. Technical Paper No. 6 provides more detail on electronic formatting and submission of data elements required to be submitted through CAFO annual reports, compliance monitoring activities, and permit applications and Notices of Intent (NOI).

## **Ex. 5 Deliberative Process (DP)**

#### **7. REGULATORY REVISION REQUESTS (from Jenny's 1-pager briefing for Sally)**

- **Food and Water Watch et al, Petition to Revise the Clean Water Act Regulations for Concentrated Animal Feeding Operations, March 2017.**
  - On March 8, 2017, Food and Water Watch and 34 other environmental groups filed a petition seeking changes to the NPDES CAFO regulations that would bring more AFOs and CAFOs into the NPDES permit program and impose stricter controls in NPDES permits for CAFOs. Petitioners sought the following:
    1. Establish an evidentiary presumption that certain CAFOs actually discharge
    2. Re-interpret agricultural stormwater exemption so that no discharges resulting from CAFO activities are exempt as non-point source pollution
    3. Ensure that integrators who meet the CWA definition of owner or operator are co-permitted with contract producers
    4. Revise the regulatory definitions of “medium CAFO” and “production area” and revise designation authorities
    5. Require water quality monitoring in all CAFO NPDES permits
    6. EPA should revise CAFO effluent guidelines
  - EPA has acknowledged receipt of the petition but has not yet formally responded. NPDES program staff and managers in OWM, OECA, and OGC have held occasional calls with the petitioners to listen to their concerns regarding the water quality impacts of animal agriculture.

## **Ex. 5 Deliberative Process (DP)**



# **Ex. 5 Deliberative Process (DP)**

# **Ex. 5 Deliberative Process (DP)**

# Ex. 5 Deliberative Process (DP)

## 9. WESTERN LAKE ERIE BASIN AND HABS

On July 11, 2018, Ohio Governor John Kasich signed Executive Order 2018-09K: Taking Steps to Protect Lake Erie.

Link to Executive Order: [ HYPERLINK

"http://governor.ohio.gov/Portals/0/executiveorders/Signed%20EO%202018-09K.pdf?ver=2018-07-11-160429-970&timestamp=1531339482234" ]

From [ HYPERLINK "https://ohioaglaw.wordpress.com/2018/07/12/agricultural-nutrients-targeted-in-clean-lake-2020-bill-and-kasich-executive-order/" ] (verbatim):

- “Directs the ODA to “consider whether it is appropriate to seek the consent of the Ohio Soil and Water Commission to designate the following Hydrologic Unit Code (HUC) watersheds or portions of watersheds in the Maumee River Basin as watersheds in distress due to increased nutrient levels resulting from phosphorous attached to soil sediment: Platter Creek Watershed, Little Flat Rock Creek Watershed, Little Auglaize River Watershed, Eagle Creek Watershed, Auglaize River, Blanchard River, St. Mary’s, Ottawa River.”
- If the Soil and Water Commission consents to a designation of a watershed in distress, ODA, the Ohio Department of Natural Resources and the Ohio EPA “should recommend a rule package that establishes the following . . . nutrient management requirements for all nutrient sources; development of associated management plans for agricultural land and operations within the designated watershed boundaries; requirements for the storage, handling, land application, and control of residual farm products, manure, and erosion of sediment and substances attached thereto within the designated watershed boundaries.”

## 10. YAKIMA/SDWA/RCRA (from EPA’s webpages)

**Nitrates and Groundwater** ([ HYPERLINK "https://www.epa.gov/wa/lower-yakima-valley-groundwater" ])

EPA is responding to community concerns in Washington’s Lower Yakima Valley about high nitrate levels in residential drinking water wells and the potential for disproportionate impacts on low income and minority rural populations, local, state, and federal agencies collaborated to develop a Preliminary Assessment and recommendations for moving forward.

One of the recommendations was to develop new projects that could help to identify sources of the contamination in groundwater supplies.

# **Ex. 5 Deliberative Process (DP)**

# **Ex. 5 Deliberative Process (DP)**

## **Ex. 5 Deliberative Process (DP)**

# **Ex. 5 Deliberative Process (DP)**

# **Ex. 5 Deliberative Process (DP)**

Message

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**From:** Ziobro, Joseph [Ziobro.Joseph@epa.gov]  
**Sent:** 8/29/2018 8:47:25 PM  
**To:** Brennan, Ross [Brennan.Ross@epa.gov]  
**Subject:** RE: Updated internal background doc  
**Attachments:** Internal Background Information for AADG-8-29-18\_Clean.docx

And the latest that I printed for Sally.

*Joseph Ziobro*

U.S. Environmental Protection Agency  
Office of Wastewater Management  
Washington, DC  
Phone: (202) 564-5376  
[ziobro.joseph@epa.gov](mailto:ziobro.joseph@epa.gov)

---

**From:** Ziobro, Joseph  
**Sent:** Wednesday, August 29, 2018 2:29 PM  
**To:** Brennan, Ross <Brennan.Ross@epa.gov>  
**Subject:** RE: Updated internal background doc

Ross,

Slightly modified version attached.

*Joseph Ziobro*

U.S. Environmental Protection Agency  
Office of Wastewater Management  
Washington, DC  
Phone: (202) 564-5376  
[ziobro.joseph@epa.gov](mailto:ziobro.joseph@epa.gov)

---

**From:** Brennan, Ross  
**Sent:** Tuesday, August 28, 2018 8:24 AM  
**To:** Ziobro, Joseph <Ziobro.Joseph@epa.gov>  
**Subject:** FW: Updated internal background doc

I'm still having problems with the flow and readability of the previous draft. No fault of yours – just the result of stitching together lots of loose information. I started some edits but didn't finish. Take a look at my markup (“-RB”), attached, and fold in the new info from your Ex. 5 Deliberative Process (DP) Some citations would help (e.g., “lifted from previous talkers for Lee”). We can get it to Sally tonight or tomorrow – she'll be preoccupied all day with the managers retreat.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Ziobro, Joseph  
**Sent:** Monday, August 27, 2018 5:43 PM



**To:** Brennan, Ross <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>

**Subject:** RE: Updated internal background doc

Ross,

Updated version attached v **Ex. 5 Deliberative Process (DP)**

*Joseph Ziobro*

U.S. Environmental Protection Agency

Office of Wastewater Management

Washington, DC

Phone: (202) 564-5376

[ziobro.joseph@epa.gov](mailto:ziobro.joseph@epa.gov)

---

**From:** Ziobro, Joseph

**Sent:** Monday, August 27, 2018 11:28 AM

**To:** Brennan, Ross <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>

**Subject:** Updated internal background doc

Ross,

I've attached an updated version of the internal background doc. I'll plan on discussing next steps with you today.

*Joseph Ziobro*

U.S. Environmental Protection Agency

Office of Wastewater Management

Washington, DC

Phone: (202) 564-5376

[ziobro.joseph@epa.gov](mailto:ziobro.joseph@epa.gov)

Message

---

**From:** Buterbaugh, Kristin [Buterbaugh.Kristin@epa.gov]  
**Sent:** 1/31/2018 9:57:13 PM  
**To:** Brennan, Ross [Brennan.Ross@epa.gov]; Greenwald, Kathryn [Greenwald.Kathryn@epa.gov]  
**Subject:** RE: DeMara - can you find best date/time for this meeting

Okay great. Thanks for including us, Ross.

**Kristin Buterbaugh**

Attorney-Adviser  
U.S. Environmental Protection Agency  
OECA - OCE - Water Enforcement Division  
WJC South 4112A  
1200 Pennsylvania Avenue, NW (Mail Code 2243A)  
Washington, DC 20460  
(202) 564-4479  
[Buterbaugh.Kristin@epa.gov](mailto:Buterbaugh.Kristin@epa.gov)

*This email may contain deliberative, attorney-client, attorney work product, or otherwise privileged material. Do not release under FOIA without appropriate review. If this email has been received by you in error, you are instructed to delete it from your machine and all storage media whether electronic or hard copy.*

---

**From:** Brennan, Ross  
**Sent:** Wednesday, January 31, 2018 4:22 PM  
**To:** Buterbaugh, Kristin <[Buterbaugh.Kristin@epa.gov](mailto:Buterbaugh.Kristin@epa.gov)>; Greenwald, Kathryn <[Greenwald.Kathryn@epa.gov](mailto:Greenwald.Kathryn@epa.gov)>  
**Subject:** RE: DeMara - can you find best date/time for this meeting

FWW had wanted to hold regular calls with Deborah and other involved staff/managers to discuss issues of concern to them and other environmental group. Each call would have a theme, and the EPA and enviro invitee list would be tweaked according to the theme. With Deborah's departure we put these calls on hold, but we're now ready to re-start them. We leave it to FWW to identify the agenda topic(s). This one (concerns with integrators) doesn't strike us as all that fruitful, but they reiterated that they'd like to cover that next. Our goal is to have someone from OECA and someone from OGC on each call. (This is only the second call!)

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Buterbaugh, Kristin  
**Sent:** Wednesday, January 31, 2018 4:11 PM  
**To:** Brennan, Ross <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>; Greenwald, Kathryn <[Greenwald.Kathryn@epa.gov](mailto:Greenwald.Kathryn@epa.gov)>  
**Subject:** RE: DeMara - can you find best date/time for this meeting

Hi Ross,

I am a contact, but I think Kathy should still be included (but that's up to you, Kathy).

What exactly is this meeting about? The rulemaking petition, or broader CAFO issues?

Thanks!

**Kristin Buterbaugh**

Attorney-Adviser  
U.S. Environmental Protection Agency  
OECA - OCE - Water Enforcement Division  
WJC South 4112A  
1200 Pennsylvania Avenue, NW (Mail Code 2243A)  
Washington, DC 20460  
(202) 564-4479  
[Buterbaugh.Kristin@epa.gov](mailto:Buterbaugh.Kristin@epa.gov)

*This email may contain deliberative, attorney-client, attorney work product, or otherwise privileged material. Do not release under FOIA without appropriate review. If this email has been received by you in error, you are instructed to delete it from your machine and all storage media whether electronic or hard copy.*

---

**From:** Brennan, Ross

**Sent:** Wednesday, January 31, 2018 3:08 PM

**To:** Greenwald, Kathryn <[Greenwald.Kathryn@epa.gov](mailto:Greenwald.Kathryn@epa.gov)>; Buterbaugh, Kristin <[Buterbaugh.Kristin@epa.gov](mailto:Buterbaugh.Kristin@epa.gov)>

**Subject:** FW: DeMara - can you find best date/time for this meeting

Kathy and Kristin

Did I hear correctly that Kristin should be our primary contact on CAFO enforcement these days? I ask just because we're trying to set up our next meeting with the FWW petitioners on CAFO issues (see below) and didn't want to shut out Kathy by mistake. Kathy, let me know if you want to be on the invite too!

Hope you both are doing well.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Brennan, Ross

**Sent:** Wednesday, January 31, 2018 3:05 PM

**To:** Magruder, DeMara <[Magruder.Demara@epa.gov](mailto:Magruder.Demara@epa.gov)>

**Subject:** DeMara - can you find best date/time for this meeting

Hi DeMara,

Krissy Kasserman of Food and Water Watch has proposed four date/time combos for our next discussion with them on CAFO issues. Can you check calendars for the EPA folks and lock in a date/time that works for our attendees? Then I'll pass that along to Krissy for invites on her end.

See the info and proposed times below. Thanks for your help.

Attendees on EPA's end:

Marcus Zobrist  
Ross Brennan  
Jenny Molloy

Nina Bonnelycke  
George Utting  
Simma Kupchan, OGC  
Kristin Buterbaugh, OECA

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Brennan, Ross  
**Sent:** Wednesday, January 31, 2018 3:00 PM  
**To:** 'Krissy Kasserman' <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)>  
**Subject:** RE: New plan

Thanks, Krissy. I'm passing this along to DeMara Magruder, our scheduler, who will ensure the right folks here are available. I suggest that DeMara find the best date for EPA folks and that I pass that date along to you to share with your folks.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Krissy Kasserman [<mailto:kkasserman@fwwatch.org>]  
**Sent:** Wednesday, January 31, 2018 12:46 PM  
**To:** Brennan, Ross <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>  
**Subject:** Re: New plan

Thanks Ross! I think so long as it's ok with y'all we'll go ahead with what I've proposed. It's what we had planned to discuss in October and it's definitely something that we cover in our rulemaking petition. A lot of our co-petitioners have a lot of interest in this topic given the impacts it has on their communities. The dates we had originally thrown out are as follows:

Feb. 20 from 3-430 PM  
Feb. 21 from 3-430 PM  
Feb. 23 from 1-230 PM  
Feb. 27 from 3-430 PM

Those are all still options for us—do you want to let me know what works best for y'all? I'd advocate for some of the latter dates at this point only since it's almost February already, though we can totally make the earlier ones work if necessary.

Thanks so much!

Krissy

---

**From:** "Brennan, Ross" <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>  
**Date:** Tuesday, January 30, 2018 at 4:24 PM

**To:** Krissy Kasserman <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)>

**Subject:** RE: New plan

I think that would be fine, if you think that would be of interest to folks on your end. I'm not sure there's much we could say that would be helpful or within our control to explore, but we would be happy to listen.

Another idea – Not sure if you knew aquaculture is another issue our branch works on. I believe you have concerns there too. We could tell you about what we're doing and see if you have questions.

(I don't want to drive the agenda too much, since it's really your meeting.)

I assume the dates you proposed are still workable – I'll shop them around here and see if folks are available.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Krissy Kasserman [<mailto:kkasserman@fwwatch.org>]

**Sent:** Tuesday, January 30, 2018 11:27 AM

**To:** Brennan, Ross <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>

**Subject:** FW: New plan

Hi Ross! Resending in case this was buried in your inbox. Just want to get something on the schedule before folks' availability starts to lessen. Thanks! Krissy

---

**From:** Krissy Kasserman <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)>

**Date:** Thursday, January 25, 2018 at 3:00 PM

**To:** "Brennan, Ross" <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>

**Subject:** New plan

Hey Ross! Thanks so much for calling yesterday. I keep trying to make a minute in my schedule today to give you a ring but it's been a little crazy so I'm settling for emailing you instead. Tarah and I really appreciate your feedback on the topic we had originally proposed and we had a quick brainstorm last evening about other ideas. Here's what we settled on—it's somewhat similar to what we had proposed for our October call, but what if we discussed integrator liability issues and focused on a few key areas like Iowa and Maryland? We could have a discussion about the concentration that results in those areas from the integrators driving growth and density—and what this means for waterways (but also to some extent communities, drinking water, etc.). Does that sound more suitable? I think it would be a productive for our folks for sure. Let me know—and feel free to give a call if you want to discuss—I should have some time between 430 and 5 today and I'm also free most of the day tomorrow.

Thanks!

-----  
**Krissy Kasserman**  
National Factory Farm Campaigner  
[Food & Water Watch](#) and [Food & Water Action](#)

O (919) 794-6381

**Ex. 6 Personal Privacy (PP)**

[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)

Fighting for a livable planet for ALL – powered by people like YOU. [Donate.](#)

Message

---

**From:** Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]  
**Sent:** 6/13/2018 4:43:37 PM  
**To:** Utting, George [Utting.George@epa.gov]  
**Subject:** George - stop by to chat about FWW petition!

Hope your meeting went well. I'd like to take some next steps w/r/t the FWW rulemaking petition and would appreciate it if you'd be willing to take the lead. As a next steps perhaps you and I could sit down with Simma to discuss possible paths on the petition. I'd also like to give Sally a fuller briefing on it – perhaps week after next? Stop by when you get a moment to bounce some ideas around . . .

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

## Appointment

---

**From:** Magruder, DeMara [Magruder.Demara@epa.gov]  
**Sent:** 5/15/2017 2:54:33 PM  
**To:** Brennan, Ross [Brennan.Ross@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Utting, George [Utting.George@epa.gov]; Bonnelycke, Nina [Bonnelycke.Nina@epa.gov]; Tarah Heinzen [theinzen@fwwatch.org]; Shenk, Kelly [shenk.kelly@epa.gov]; Wood, Robert [Wood.Robert@epa.gov]; Shriner, Paul [Shriner.Paul@epa.gov]; Goodwin, Janet [Goodwin.Janet@epa.gov]  
**CC:** Sarah Geers [sgeers@midwestadvocates.org]; Michele Merkel [mmerkel@fwwatch.org]; Scott Edwards [sedwards@fwwatch.org]; Terry, Jennifer [terry@dmwww.com]; cruisermomii [cruisermomii@Ex. 6 Personal Privacy (PP)]; Robert Martin [rmarti57@jhu.edu]; Paul Hinson [hinsonpr@Ex. 6 Personal Privacy (PP)]; Adam Kron [akron@environmentalintegrity.org]  
**Subject:** CAFO CWA Petition  
**Attachments:** REAL ID Information 07-28-14.docx  
**Location:** 1201 Constitution Avenue, N.W., Room 7217, William Jefferson Clinton Building; Dial in: Ex. 6 Personal Privacy (PP)  
Ex. 6 Personal Privacy (PP)  
**Start:** 5/17/2017 6:00:00 PM  
**End:** 5/17/2017 7:00:00 PM  
**Show Time As:** Tentative

**Required Attendees:** Brennan, Ross; Molloy, Jennifer; Utting, George; Bonnelycke, Nina; Tarah Heinzen; Shenk, Kelly; Wood, Robert; Shriner, Paul; Goodwin, Janet  
**Optional Attendees:** Sarah Geers; Michele Merkel; Scott Edwards; Terry, Jennifer; cruisermomii; Robert Martin; Paul Hinson; Adam Kron

Our office is located at 1201 Constitution Avenue, N.W., Washington, DC (Federal Triangle Metro stop). The entrance is on Constitution Avenue near the corner of 12<sup>th</sup> & Constitution Avenue, N.W. Once you arrive at the building, please present your identification to the Security Guard (please see attachment for proper identification). After completing the security procedures, please ask the guard to call 202-564-8478 (DeMara Magruder) so that someone can come down to escort you to the conference room.

Information for attendees who will be calling into the meeting:

Dial In: Ex. 6 Personal Privacy (PP)  
Passcode: Ex. 6 Personal Privacy (PP)

Thank you.



Message

---

**From:** Krissy Kasserman [kkasserman@fwwatch.org]  
**Sent:** 2/23/2018 2:24:47 PM  
**To:** Brennan, Ross [Brennan.Ross@epa.gov]  
**Subject:** Re: Krissy - Agenda for next week's call?  
**Attachments:** 180227 EPA%2FPetitioners Call Agenda.docx

Hi Ross! See attached agenda (call-in information is there as well). We're still trying to confirm that someone from Iowa Citizens for Community Improvement will be able to participate, but otherwise this is final. Thanks so much & have a great weekend!

Krissy

---

**From:** Brennan, Ross <Brennan.Ross@epa.gov>  
**Sent:** Thursday, February 22, 2018 7:29:35 AM  
**To:** Krissy Kasserman  
**Subject:** Re: Krissy - Agenda for next week's call?

Sounds good. Thanks.

On Feb 21, 2018, at 11:10 AM, Krissy Kasserman <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)> wrote:

Hi Ross! Yep, we actually had a prep meeting yesterday and I was planning to follow up with you ASAP. Still going with the topic we initially discussed--- community level impacts resulting from the concentration you often see with vertical integration of CAFO's. I think we'll have community members discuss their experiences on Maryland's eastern shore, in Arkansas, and potentially in Iowa. I'm hoping to have a more detailed agenda put together today to share. Sound ok? Thanks for the reminder!

---

**From:** Brennan, Ross <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>  
**Sent:** Wednesday, February 21, 2018 11:04:55 AM  
**To:** Krissy Kasserman  
**Subject:** Krissy - Agenda for next week's call?

Hey Krissy,

Just checking in to see whether you've identified topic areas for the call. Just want to be sure I have the right people in the room in our end.

If not yet, no worries – just wanted to check.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Krissy Kasserman [<mailto:kkasserman@fwwatch.org>]  
**Sent:** Tuesday, February 06, 2018 1:26 PM

**To:** Brennan, Ross <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>

**Subject:** Re: New plan

Hi Ross! Here's a call-in number for the 27<sup>th</sup>. Still working on an agenda. Thanks!

1 877 853 5247 (Toll Free)

Meeting ID: 867 116 664

---

**From:** Krissy Kasserman <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)>

**Date:** Friday, February 2, 2018 at 4:02 PM

**To:** "Brennan, Ross" <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>

**Subject:** Re: New plan

Thank you, Ross! I appreciate your help in restarting these meetings—they're really valuable for the people we work with in factory farm-impacted communities. I'll notify our people and will send a call-in number ASAP! Will get back to you with an agenda soon as well.

Best,

Krissy

---

**From:** "Brennan, Ross" <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>

**Date:** Friday, February 2, 2018 at 1:34 PM

**To:** Krissy Kasserman <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)>

**Subject:** FW: New plan

Hi Krissy!

Looks like 2/27 at 3:00 is the best option. We'll plan on that, and you can notify your folks. I don't yet have a call-in number here (our system is going through an awkward transition), but if you have one feel free to share it with me and we'll use that. Have a great weekend.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Brennan, Ross

**Sent:** Thursday, February 01, 2018 1:00 PM

**To:** 'Krissy Kasserman' <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)>

**Subject:** RE: New plan

Hi Krissy,

So far the best option for us is 2/20 at 3:00, and the second-best option is 2/27 at 3:00. It'll probably be a day or two before we can narrow it down further – hope this is OK.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Krissy Kasserman [mailto:kkasserman@fwwatch.org]  
**Sent:** Wednesday, January 31, 2018 3:23 PM  
**To:** Brennan, Ross <Brennan.Ross@epa.gov>  
**Subject:** Re: New plan

That's perfect. Thanks so much, Ross!

---

**From:** "Brennan, Ross" <Brennan.Ross@epa.gov>  
**Date:** Wednesday, January 31, 2018 at 2:59 PM  
**To:** Krissy Kasserman <kkasserman@fwwatch.org>  
**Subject:** RE: New plan

Thanks, Krissy. I'm passing this along to DeMara Magruder, our scheduler, who will ensure the right folks here are available. I suggest that DeMara find the best date for EPA folks and that I pass that date along to you to share with your folks.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Krissy Kasserman [mailto:kkasserman@fwwatch.org]  
**Sent:** Wednesday, January 31, 2018 12:46 PM  
**To:** Brennan, Ross <Brennan.Ross@epa.gov>  
**Subject:** Re: New plan

Thanks Ross! I think so long as it's ok with y'all we'll go ahead with what I've proposed. It's what we had planned to discuss in October and it's definitely something that we cover in our rulemaking petition. A lot of our co-petitioners have a lot of interest in this topic given the impacts it has on their communities. The dates we had originally thrown out are as follows:

Feb. 20 from 3-430 PM  
Feb. 21 from 3-430 PM  
Feb. 23 from 1-230 PM  
Feb. 27 from 3-430 PM

Those are all still options for us—do you want to let me know what works best for y'all? I'd advocate for some of the latter dates at this point only since it's almost February already, though we can totally make the earlier ones work if necessary.

Thanks so much!

Krissy

---

**From:** "Brennan, Ross" <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>  
**Date:** Tuesday, January 30, 2018 at 4:24 PM  
**To:** Krissy Kasserman <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)>  
**Subject:** RE: New plan

I think that would be fine, if you think that would be of interest to folks on your end. I'm not sure there's much we could say that would be helpful or within our control to explore, but we would be happy to listen.

Another idea – Not sure if you knew aquaculture is another issue our branch works on. I believe you have concerns there too. We could tell you about what we're doing and see if you have questions.

(I don't want to drive the agenda too much, since it's really your meeting.)

I assume the dates you proposed are still workable – I'll shop them around here and see if folks are available.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Krissy Kasserman [<mailto:kkasserman@fwwatch.org>]  
**Sent:** Tuesday, January 30, 2018 11:27 AM  
**To:** Brennan, Ross <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>  
**Subject:** FW: New plan

Hi Ross! Resending in case this was buried in your inbox. Just want to get something on the schedule before folks' availability starts to lessen. Thanks! Krissy

---

**From:** Krissy Kasserman <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)>  
**Date:** Thursday, January 25, 2018 at 3:00 PM  
**To:** "Brennan, Ross" <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>  
**Subject:** New plan

Hey Ross! Thanks so much for calling yesterday. I keep trying to make a minute in my schedule today to give you a ring but it's been a little crazy so I'm settling for emailing you instead. Tarah and I really appreciate your feedback on the topic we had originally proposed and we had a quick brainstorm last evening about other ideas. Here's what we settled on—it's somewhat similar to what we had proposed for our October call, but what if we discussed integrator liability issues and focused on a few key areas like Iowa and Maryland? We could have a discussion about the concentration that results in those areas from the integrators driving growth and density—and what this means for waterways (but also to some extent communities, drinking water, etc.). Does that sound more suitable? I think it would be a productive for our folks for sure. Let me know—and feel free to give a call if you want to discuss—I should have some time between 430 and 5 today and I'm also free most of the day tomorrow.

Thanks!

-----  
**Krissy Kasserman**  
National Factory Farm Campaigner

Food & Water Watch and Food & Water Action

0 (919) 794-6381

Ex. 6 Personal Privacy (PP)

kkasserman@fwwatch.org

Fighting for a livable planet for ALL – powered by people like YOU. **Donate.**

Message

---

**From:** Sawyers, Andrew [Sawyers.Andrew@epa.gov]  
**Sent:** 2/23/2018 1:35:42 AM  
**To:** Brennan, Ross [Brennan.Ross@epa.gov]  
**CC:** Zobrist, Marcus [Zobrist.Marcus@epa.gov]; Farris, Erika D. [Farris.Erika@epa.gov]  
**Subject:** Re: Andrew - elaboration on one of Rural Branch's weekly report bullets

Thanks Ross, we should entirely be in a listening mode. No commitments can be made. I look forward to the readout.

On Feb 22, 2018, at 5:23 PM, Brennan, Ross <Brennan.Ross@epa.gov> wrote:

Andrew,

Here's a bit more information in response to your question about the Food and Water Watch call mentioned in the Rural Branch highlights.

As a result of the March 2017 petition we received from Food and Water Watch and other environmental groups seeking changes to the CAFO regulations, we agreed to attend occasional calls to hear their concerns about specific implementation issues. For next week's call (the second one they've requested) they'd like to talk to us about water quality and health-related issues they're seeing with regard to large vertical integrators in places like the Eastern Shore. They understand that we are only in listening mode but they appreciate a chance to be heard. We include OECA since they are talking about on-the-ground issues that might have an enforcement angle. Will pass along to you anything interesting that comes from the call.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Farris, Erika D.  
**Sent:** Thursday, February 22, 2018 2:30 PM  
**To:** Brennan, Ross <Brennan.Ross@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>  
**Subject:** RE: Rural Branch highlights for Andrew

Hi – Andrew was interested in a bit more info about this Rural Branch highlight. Could you please shoot him an email with some more details?

- Next Tuesday, February 27, Food and Water Watch and other environmental groups will meet with WPD members by conference call to discuss their environmental concerns with CAFOs. OECA and OGC staff are attending as well. Final agenda is TBD. (Brennan, Molloy, Utting, Bonnelycke)

---

**From:** Brennan, Ross  
**Sent:** Wednesday, February 21, 2018 2:24 PM  
**To:** Farris, Erika D. <Farris.Erika@epa.gov>; Thomas, Deborah R. <thomas.deborahr@epa.gov>  
**Cc:** Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>; Chan, Jennifer <Chan.Jennifer@epa.gov>; Chumble, Prasad <Chumble.Prasad@epa.gov>; Jones, Kristin <jones.kristin@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Ziobro, Joseph

<[Ziobro.Joseph@epa.gov](mailto:Ziobro.Joseph@epa.gov)>

**Subject:** Rural Branch highlights for Andrew

Here you go, Erika and Deborah. (Welcome, Deborah – looking forward to meeting you!)

- <!--[if !supportLists]--><!--[endif]-->Next Tuesday, February 27, Food and Water Watch and other environmental groups will meet with WPD members by conference call to discuss their environmental concerns with CAFOs. OECA and OGC staff are attending as well. Final agenda is TBD. (Brennan, Molloy, Utting, Bonnelycke)
- <!--[if !supportLists]--><!--[endif]-->Rural Branch members are attending the Aquaculture America 2018 conference this week, including participating in a “federal town hall” panel discussion with other members of the federal Interagency Workgroup on Aquaculture (IWG-A). (Molloy, Jones)

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

Message

**From:** Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]  
**Sent:** 7/11/2018 2:37:03 PM  
**To:** Kupchan, Simma [Kupchan.Simma@epa.gov]; Utting, George [Utting.George@epa.gov]  
**CC:** Levine, MaryEllen [levine.maryellen@epa.gov]  
**Subject:** FWW briefer - Final version with a few tweaks  
**Attachments:** Summary - FWW Petition.docx

Made a few more tweaks, and unless you folks have further comments I think it's good to go for today.

Very much appreciate Simma's quick fleshing out of page one.

**Ex. 5 Deliberative Process (DP)**

## Ex. 5 Deliberative Process (DP)

You guys OK if I invite intern Charlene (if she's available/interested)? Not sure how many meetings like this she gets to sit in and it might liven up her day

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Kupchan, Simma  
**Sent:** Tuesday, July 10, 2018 4:16 PM  
**To:** Utting, George <Utting.George@epa.gov>; Brennan, Ross <Brennan.Ross@epa.gov>  
**Cc:** Levine, MaryEllen <levine.maryellen@epa.gov>  
**Subject:** RE: Brfg document for Sally on FWW petition

## Ex. 5 Attorney Client (AC)

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
202-564-3105  
WJC North #7426Q

---

**From:** Utting, George  
**Sent:** Tuesday, July 10, 2018 4:10 PM  
**To:** Kupchan, Simma <Kupchan.Simma@epa.gov>; Brennan, Ross <Brennan.Ross@epa.gov>  
**Cc:** Levine, MaryEllen <levine.maryellen@epa.gov>  
**Subject:** RE: Brfg document for Sally on FWW petition

Thanks, Simma. Good edits - I always appreciate your explanation of

**Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP)



As to the recommendations,

## Ex. 5 Deliberative Process (DP)

# Ex. 5 Deliberative Process (DP)

**From:** Kupchan, Simma

**Sent:** Tuesday, July 10, 2018 3:58 PM

**To:** Utting, George <Utting.George@epa.gov>; Brennan, Ross <Brennan.Ross@epa.gov>

**Cc:** Levine, MaryEllen <levine.maryellen@epa.gov>

**Subject:** RE: Brfg document for Sally on FWW petition

(CC'ing Mary Ellen, who was interested in attending, if that's okay.)

Thanks, George. I just made some edits to the first bullet to provide additional background.

# Ex. 5 Attorney Client (AC)

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
202-564-3105  
WJC North #7426Q

---

**From:** Utting, George

**Sent:** Tuesday, July 10, 2018 2:28 PM

**To:** Brennan, Ross <Brennan.Ross@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>

**Subject:** RE: Brfg document for Sally on FWW petition

Sorry guys . . . use this draft.

---

**From:** Utting, George

**Sent:** Tuesday, July 10, 2018 2:23 PM

**To:** Ross Brennan <Brennan.Ross@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>

**Subject:** Brfg document for Sally on FWW petition

For tomorrow's briefing for Sally on the petition.

Ross did the main document. I added the bullets on our thinking about each of the items for which FWW is requesting relief.

Let me know what you think .

**Overview – March 8, 2017 CAFO Rulemaking Petition  
from Food & Water Watch and Others**

**Petitioners:**

|                                                      |                                                  |
|------------------------------------------------------|--------------------------------------------------|
| Food and Water Watch                                 | Interfaith Worker Justice (NM)                   |
| Arkansas Rights Koalition                            | Iowa Citizens for Community Improvement          |
| Assateague Coastal Trust (MD)                        | Jefferson County Farmers and Neighbors (IA)      |
| Association of Irrigated Residents (CA)              | Johns Hopkins Center for a Livable Future        |
| Buffalo River Watershed Alliance (AR)                | Kewaunee Citizens Advocating Responsible         |
| Center for Biological Diversity                      | Environmental Stewardship (WI)                   |
| Center for Food Safety                               | Land Stewardship Project (MN)                    |
| Concerned Citizens Against Industrial CAFOs (MD)     | Midwest Environmental Advocates (WI)             |
| Dakota Rural Action (SD)                             | Missouri Rural Crisis Center                     |
| Dallas County Farmers and Neighbors (IA)             | Moms Across America Eastern Shore (MD)           |
| Des Moines Water Works (IA)                          | Montgomery Township Friends of Family Farms (PA) |
| Dodge County Concerned Citizens (MN)                 | North Carolina Environmental Justice Network     |
| Don't Waste Arizona                                  | Ozark River Stewards (AR)                        |
| Environmental Integrity Project                      | Patuxent Riverkeeper (MD)                        |
| Grand Riverkeeper (OK)                               | Poweshiek Community Action to Restore            |
| Helping Others Maintain Environmental Standards (IL) | Environmental Stewardship (IA)                   |
| Illinois Citizens for Clean Air and Water (IL)       | Preserve Our Shore Accomack County (VA)          |
| Institute for Agriculture and Trade Policy           | Rio Valle Concerned Citizens (NM)                |

**Relief Sought – Petitioners ask EPA to:**

1. Establish an evidentiary presumption that certain CAFOs actually discharge

**Ex. 5 Deliberative Process (DP)**

*Internal/deliberative – Do not release outside EPA*

2. Re-interpret the agricultural stormwater exemption so that no discharges resulting from CAFO activities are exempt as non-point source pollution

## **Ex. 5 Deliberative Process (DP)**

3. Ensure that integrators who meet the CWA definition of owner or operator are co-permitted with contract producers

## **Ex. 5 Deliberative Process (DP)**

4. Revise the regulatory definitions of "medium CAFO" and "production area" and revise designation authorities

## **Ex. 5 Deliberative Process (DP)**

5. Require water quality monitoring in all CAFO NPDES permits

## **Ex. 5 Deliberative Process (DP)**

6. EPA should revise the CAFO effluent guidelines

## **Ex. 5 Deliberative Process (DP)**

### Chronology

3/8/2017: FWW and 34 other organizations file petition

5/17/2017: Initial meeting with Deborah Nagle; agrees to dialogue.

7/5/2017: FWW leads hold planning call with Deborah Nagle to map next steps

8/30/2017. Call with Deborah Nagle and petitioner groups

2/27/2018. Call with Marcus Zobrist (as acting DD) and petitioner groups

*(Ross and FWW have held several other planning and "touch base" calls.)*

### Observations about calls

## Ex. 5 Deliberative Process (DP)

### Topics for Discussion

## Ex. 5 Deliberative Process (DP)

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**Overview – March 8, 2017 CAFO Rulemaking Petition  
from Food & Water Watch and Others**

**Petitioners:**

|                                                      |                                                  |
|------------------------------------------------------|--------------------------------------------------|
| Food and Water Watch                                 | Interfaith Worker Justice (NM)                   |
| Arkansas Rights Koalition                            | Iowa Citizens for Community Improvement          |
| Assateague Coastal Trust (MD)                        | Jefferson County Farmers and Neighbors (IA)      |
| Association of Irrigated Residents (CA)              | Johns Hopkins Center for a Livable Future        |
| Buffalo River Watershed Alliance (AR)                | Kewaunee Citizens Advocating Responsible         |
| Center for Biological Diversity                      | Environmental Stewardship (WI)                   |
| Center for Food Safety                               | Land Stewardship Project (MN)                    |
| Concerned Citizens Against Industrial CAFOs (MD)     | Midwest Environmental Advocates (WI)             |
| Dakota Rural Action (SD)                             | Missouri Rural Crisis Center                     |
| Dallas County Farmers and Neighbors (IA)             | Moms Across America Eastern Shore (MD)           |
| Des Moines Water Works (IA)                          | Montgomery Township Friends of Family Farms (PA) |
| Dodge County Concerned Citizens (MN)                 | North Carolina Environmental Justice Network     |
| Don't Waste Arizona                                  | Ozark River Stewards (AR)                        |
| Environmental Integrity Project                      | Patuxent Riverkeeper (MD)                        |
| Grand Riverkeeper (OK)                               | Poweshiek Community Action to Restore            |
| Helping Others Maintain Environmental Standards (IL) | Environmental Stewardship (IA)                   |
| Illinois Citizens for Clean Air and Water (IL)       | Preserve Our Shore Accomack County (VA)          |
| Institute for Agriculture and Trade Policy           | Rio Valle Concerned Citizens (NM)                |

**Relief Sought – Petitioners ask EPA to:**

1. Establish an evidentiary presumption that certain CAFOs actually discharge

## Ex. 5 Deliberative Process (DP)

2. Re-interpret the agricultural stormwater exemption so that no discharges resulting from CAFO activities are exempt as non-point source pollution

### **Ex. 5 Deliberative Process (DP)**

3. Ensure that integrators who meet the CWA definition of owner or operator are co-permitted with contract producers

### **Ex. 5 Deliberative Process (DP)**

4. Revise the regulatory definitions of “medium CAFO” and “production area” and revise designation authorities

### **Ex. 5 Deliberative Process (DP)**

5. Require water quality monitoring in all CAFO NPDES permits

### **Ex. 5 Deliberative Process (DP)**

6. EPA should revise the CAFO effluent guidelines

### **Ex. 5 Deliberative Process (DP)**

## **Ex. 5 Deliberative Process (DP)**

### **Chronology**

3/8/2017: FWW and 34 other organizations file petition

5/17/2017: Initial meeting with Deborah Nagle; agrees to dialogue.

7/5/2017: FWW leads hold planning call with Deborah Nagle to map next steps

8/30/2017. Call with Deborah Nagle and petitioner groups

2/27/2018. Call with Marcus Zobrist (as acting DD) and petitioner groups

### **Observations about calls**

## **Ex. 5 Deliberative Process (DP)**

**Chesapeake Bay Settlement Agreement Commitment  
Considering Modifications to CAFO Regulations**

**Communications Strategy**

**KEY MESSAGES**

Comprehensive and well-implemented CAFO permit programs are an important component of reducing animal agriculture pollution, but they are not the only component. Of critical importance is for each state to have strong state programs to address animal operations that are not covered under the CAFO program and sufficient funding to implement agricultural conservation practices called for in the state Watershed Implementation Plans.

## **Ex. 5 Deliberative Process (DP)**



## Ex. 5 Deliberative Process (DP)

### On day of release:

1. EPA Region 3 Water Protection Division will post link on the Chesapeake Bay TMDL website: [ HYPERLINK "<https://www.epa.gov/chesapeake-bay-tmdl/sector-specific-epa-oversight-chesapeake-bay-watershed>" ]
2. OWM will notify external organizations:
  - Animal Agriculture Discussion Group. Andrew Sawyers will send an e-mail to members of the AADG. Content will generally follow the language of the desk statement (below).
  - Association of Clean Water Administrators. Ross Brennan will call Sean Rolland.
  - Food and Water Watch. Sally Gutierrez or Ross Brennan will call Tarah Heinzen.
3. Jenny Molloy will send an e-mail to Regional and HQ CAFO coordinators. Content will generally follow the language of the desk statement (below).

## Ex. 5 Deliberative Process (DP)

**CAFO Rule Assessment for Chesapeake Bay  
Proposed Stakeholder Engagement Process**

**Public Release of Report:**

EPA must make the result of the assessment available to the public by no later than June 30, 2018. Proposed approach:

**Ex. 5 Deliberative Process (DP)**

**Chesapeake Bay Stakeholder Engagement:**

Proposed approach:

**Ex. 5 Deliberative Process (DP)**

**National Stakeholder Engagement:**

Proposed approach:

**Ex. 5 Deliberative Process (DP)**

- Food and Water Watch (given their CAFO petition)
- [List others here]

**Anticipated Response from Stakeholder Groups:**

## **Ex. 5 Deliberative Process (DP)**

Chesapeake Bay Settlement Agreement Commitment  
Considering Modifications to CAFO Regulations

Communications Strategy

DATE: May 9, 2018

## Ex. 5 Deliberative Process (DP)

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ANTICIPATED REACTION§

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## Ex. 5 Deliberative Process (DP)

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## STAKEHOLDER NOTIFICATIONS

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# Ex. 5 Deliberative Process (DP)

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  - Food and Water Watch. Sally Gutierrez or Ross Brennan will call Tarah Heinzen.
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### DESK STATEMENT:

# Ex. 5 Deliberative Process (DP)

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## Ex. 5 Deliberative Process (DP)

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**Chesapeake Bay Settlement Agreement Commitment  
Considering Modifications to CAFO Regulations**

**Communications Strategy**

**DATE:** May 9, 2018

**ACTION:** Under the revised Chesapeake Bay Foundation settlement agreement, EPA committed to “assess, by no later than June 30, 2018, whether revisions to [federal] CAFO regulations . . . are necessary to achieve the objectives of the animal agriculture commitments in the [watershed implementation plans (WIPs)] as part of the overall Chesapeake Bay TMDL.”

Since 2010, EPA has reviewed progress through analyses and assessments, and has determined that changes to federal CAFO regulations are not necessary to achieve the animal agriculture pollution reduction goals for Chesapeake Bay.

## Ex. 5 Deliberative Process (DP)

**MATERIALS:**

- Stakeholder notifications
- Desk Statement



## Ex. 5 Deliberative Process (DP)

On day of release:

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  - Food and Water Watch. Sally Gutierrez or Ross Brennan will call Tarah Heinzen.
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## Ex. 5 Deliberative Process (DP)

# **Ex. 5 Deliberative Process (DP)**

**Chesapeake Bay Settlement Agreement Commitment  
Considering Modifications to CAFO Regulations**

**Communications Strategy**

**DATE:** May 9, 2018

**ACTION:** Under the revised Chesapeake Bay Foundation settlement agreement, EPA committed to “assess, by no later than June 30, 2018, whether revisions to [federal] CAFO regulations . . . are necessary to achieve the objectives of the animal agriculture commitments in the [watershed implementation plans (WIPs)] as part of the overall Chesapeake Bay TMDL.”

Since 2010, EPA has reviewed progress through analyses and assessments, and has determined that changes to federal CAFO regulations are not necessary to achieve the animal agriculture pollution reduction goals for Chesapeake Bay.

# Ex. 5 Deliberative Process (DP)

**MATERIALS:**

- Stakeholder notifications
- Desk Statement

discussions like this, I think it should be deleted.

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## STAKEHOLDER NOTIFICATIONS

# Ex. 5 Deliberative Process (DP)

### On day of release:

1. EPA Region 3 Water Protection Division will post link on the Chesapeake Bay TMDL website: [ HYPERLINK "<https://www.epa.gov/chesapeake-bay-tmdl/sector-specific-epa-oversight-chesapeake-bay-watershed>" ]
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  - Food and Water Watch. Sally Gutierrez or Ross Brennan will call Tarah Heinzen.
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# Ex. 5 Deliberative Process (DP)

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## **Ex. 5 Deliberative Process (DP)**

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Ex. 5 Deliberative Process (DP)

| Branch |                  |                                                                |
|--------|------------------|----------------------------------------------------------------|
| Lead   | Activity Type    | Activity                                                       |
| IB     | Policy           | Ex. 5 Deliberative Process (DP)                                |
| IB     | Policy           |                                                                |
| IB     | Policy           |                                                                |
| IB     | Permits          |                                                                |
| IB     | Permits          |                                                                |
| IB     | Permits          |                                                                |
| IB     | Partnerships     |                                                                |
| IB     | Policy           |                                                                |
| IB     | Policy           |                                                                |
| IB     | Permits          |                                                                |
|        |                  |                                                                |
| IB     | Litigation       |                                                                |
| IB     | Partnerships     |                                                                |
| IB     | Petition         | Food and Water Watch - Petition on Adequacy of CAFO regulation |
| IO     | Management       | Ex. 5 Deliberative Process (DP)                                |
| MB     | Rules            |                                                                |
| MB     | Litigation       |                                                                |
| MB     | Permits          |                                                                |
| MB     | Permits          |                                                                |
| MB     | Rules            |                                                                |
| MB     | Permits          |                                                                |
| MB     | Policy           |                                                                |
| MB     | Policy           |                                                                |
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| MB     | Policy           |                                                                |
| MB     | Permits          |                                                                |
| MB     | Policy           |                                                                |
| MB     | Litigation       |                                                                |
| MB     | Litigation       |                                                                |
| MB     | Partnerships     |                                                                |
| MB     | Partnerships     |                                                                |
| NPB    | Rules            |                                                                |
| NPB    | Rules            |                                                                |
| NPB    | LEAN             |                                                                |
| NPB    | LEAN             |                                                                |
| NPB    | WQ Standards     |                                                                |
| NPB    | WQ Standards     |                                                                |
| NPB    | WQ Standards     |                                                                |
| NPB    | Permits          |                                                                |
| NPB    | Litigation       |                                                                |
| NPB    | Litigation       |                                                                |
| NPB    | Litigation       |                                                                |
| NPB    | Program Transfer |                                                                |
| NPB    | Program Transfer |                                                                |
| NPB    | Program Transfer |                                                                |
| NPB    | LEAN             |                                                                |
| NPB    | LEAN             |                                                                |
| NPB    | LEAN             |                                                                |

Ex. 5 Deliberative Process (DP)

|                                 |                  |                     |                                 |
|---------------------------------|------------------|---------------------|---------------------------------|
| Ex. 5 Deliberative Process (DP) | NPB              | Permits             | Ex. 5 Deliberative Process (DP) |
|                                 | NPB              | Withdrawal Petition |                                 |
|                                 | NPB              | Withdrawal Petition |                                 |
|                                 | NPB              | Withdrawal Petition |                                 |
|                                 | NPB              | Permits             |                                 |
|                                 | NPB              | Permits             |                                 |
|                                 | NPB              | Rules               |                                 |
|                                 | NPB              | Withdrawal Petition |                                 |
|                                 | NPB              | Withdrawal Petition |                                 |
|                                 | NPB              | Permits             |                                 |
|                                 | NPB              | Permits             |                                 |
|                                 | NPB              | Withdrawal Petition |                                 |
|                                 | NPB              | Rules               |                                 |
|                                 | NPB              | Rules               |                                 |
| NPB                             | Program Transfer |                     |                                 |
| NPB                             | Program Transfer |                     |                                 |
|                                 | NPB              | Program Transfer    | Ex. 5 Deliberative Process (DP) |

Ex. 5 Deliberative Process (DP)

- Selections
- 1

2

3

4
- IO

MB

IB

NPB
- Rules

Permits

Policy

Litigation

Petitions

Program Oversight

Technical Assistance

WQ Standards

Petition

Program Transfer

LEAN

Withdrawal Petition

Partnerships

Management

Message

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**From:** Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]  
**Sent:** 12/14/2017 6:28:39 PM  
**To:** Krissy Kasserman [kkasserman@fwwatch.org]  
**Subject:** Re: EPA meetings with petitioners

Sorry Krissy - just free to chat starting now. Let's catch up next week instead.

On Dec 14, 2017, at 1:06 PM, Krissy Kasserman <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)> wrote:

No problem, Ross! If you have a chance to call I'm open till 1:30 (and would love to conference in Tarah if you wouldn't mind). But it's not really urgent and we can totally connect next week if that's a little less crazy for you.

Thanks!

Krissy

---

**From:** "Brennan, Ross" <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>  
**Date:** Thursday, December 14, 2017 at 9:46 AM  
**To:** Krissy Kasserman <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)>  
**Subject:** Re: EPA meetings with petitioners

Good morning Krissy - I'm on jury duty for a couple days but I might be able to call you during lunch break. I'm pencilling in 1:00 - can update you later this morning re whether that would work

On Dec 13, 2017, at 8:33 PM, Krissy Kasserman <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)> wrote:

Hi Ross! Thanks so much for the quick response. Any chance you could jump on the phone with Tarah Heinzen and I to discuss how to move this forward? Might be easier to talk logistics etc. Short notice, but we're available tomorrow (Thursday) around 1 if that works for you—we also have some availability early next week. Thanks and please let me know what works.

Thanks a bunch.

Krissy

---

**From:** "Brennan, Ross" <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>  
**Date:** Monday, December 11, 2017 at 1:28 PM  
**To:** Krissy Kasserman <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)>  
**Subject:** RE: EPA meetings with petitioners

Hi Krissy,

Good to hear from you.



Marcus Zobrist is the acting director of the Water Permits Division while Deborah Nagle is on detail to the Office of Science and Technology. Despite not being as familiar with your issues as Deborah, and although he'll likely be on board for only a few months, he would be happy to meet with you and the other petitioners to continue the dialogue. Would you like me to work with DeMara Magruder, our scheduler, to see whether she can find some times that work? I recall that her approach was to send out two or three invitations to the group of all folks to see which one garnered the most yeses. Would that be a good approach this time around? Do you want to let me know whether the list of potential participants (or their email addresses) has changed and some rough suggestions for timing?

I'm also happy to chat by phone if that's easier.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Krissy Kasserman [<mailto:kkasserman@fwwatch.org>]  
**Sent:** Wednesday, December 06, 2017 4:42 PM  
**To:** Brennan, Ross <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>  
**Subject:** EPA meetings with petitioners

Hi Ross,

Hope this finds you well. You and I spoke last in early October after Deborah Maxwell's promotion regarding the discussions she had committed to having with us and other petitioners after submittal of our rulemaking petition regarding CAFO issues. When we last spoke there was a new department head and you and I discussed postponing our meeting until he had an opportunity to learn more about his new role and determine how to move forward with these meetings. I wanted to follow up with you to see if there have been any additional developments or thoughts about continuing our conversations. Thanks for any information you can share!

Best,

**Krissy Kasserman**  
National Factory Farm Campaigner  
[Food & Water Watch](#) and [Food & Water Action](#)

[0 \(919\) 794-6381](tel:019197946381)

**Ex. 6 Personal Privacy (PP)**

[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)

Fighting for a livable planet for ALL – powered by people like YOU. [Donate.](#)

Message

---

**From:** Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]  
**Sent:** 7/9/2018 10:42:10 PM  
**To:** Utting, George [Utting.George@epa.gov]  
**Subject:** Early draft for FWW briefing  
**Attachments:** Summary - FWW Petition.docx

Didn't put anything in writing about legal options for proceeding with petition – wasn't sure how much to put in writing

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

## **Overview – March 8, 2017 CAFO Rulemaking Petition from Food & Water Watch and Others**

### **Petitioners:**

|                                                      |                                                                            |
|------------------------------------------------------|----------------------------------------------------------------------------|
| Food and Water Watch                                 | Interfaith Worker Justice (NM)                                             |
| Arkansas Rights Coalition                            | Iowa Citizens for Community Improvement                                    |
| Assateague Coastal Trust (MD)                        | Jefferson County Farmers and Neighbors (IA)                                |
| Association of Irrigated Residents (CA)              | Johns Hopkins Center for a Livable Future                                  |
| Buffalo River Watershed Alliance (AR)                | Kewaunee Citizens Advocating Responsible<br>Environmental Stewardship (WI) |
| Center for Biological Diversity                      | Land Stewardship Project (MN)                                              |
| Center for Food Safety                               | Midwest Environmental Advocates (WI)                                       |
| Concerned Citizens Against Industrial CAFOs (MD)     | Missouri Rural Crisis Center                                               |
| Dakota Rural Action (SD)                             | Moms Across America Eastern Shore (MD)                                     |
| Dallas County Farmers and Neighbors (IA)             | Montgomery Township Friends of Family Farms (PA)                           |
| Des Moines Water Works (IA)                          | North Carolina Environmental Justice Network                               |
| Dodge County Concerned Citizens (MN)                 | Ozark River Stewards (AR)                                                  |
| Don't Waste Arizona                                  | Patuxent Riverkeeper (MD)                                                  |
| Environmental Integrity Project                      | Poweshiek Community Action to Restore<br>Environmental Stewardship (IA)    |
| Grand Riverkeeper (OK)                               | Preserve Our Shore Accomack County (VA)                                    |
| Helping Others Maintain Environmental Standards (IL) | Rio Valle Concerned Citizens (NM)                                          |
| Illinois Citizens for Clean Air and Water (IL)       |                                                                            |
| Institute for Agriculture and Trade Policy           |                                                                            |

### **Relief Sought – Petitioners ask EPA to:**

1. Establish an evidentiary presumption that certain CAFOs actually discharge
2. Re-interpret the agricultural stormwater exemption so that no discharges resulting from CAFO activities are exempt as non-point source pollution
3. Ensure that integrators who meet the CWA definition of owner or operator are co-permitted with contract producers
4. Revise the regulatory definitions of “medium CAFO” and “production area” and revise designation authorities
5. Require water quality monitoring in all CAFO NPDES permits
6. EPA should revise the CAFO effluent guidelines

### **Chronology**

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5/17/2017: Initial meeting with Deborah Nagle; agrees to dialogue.

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8/30/2017. Call with Deborah Nagle and petitioner groups

2/27/2018. Call with Marcus Zobrist (as acting DD) and petitioner groups

## **Ex. 5 Deliberative Process (DP)**

## Appointment

---

**From:** Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]  
**Sent:** 7/5/2017 2:45:50 PM  
**To:** Utting, George [Utting.George@epa.gov]  
**Subject:** FW: CAFO CWA Petition Meeting Follow Up  
**Location:** Dial in: 1-866-299-3188; Passcode: 202-564-1185  
**Start:** 7/5/2017 5:30:00 PM  
**End:** 7/5/2017 6:00:00 PM  
**Show Time As:** Tentative

-----Original Appointment-----

**From:** Nagle, Deborah  
**Sent:** Wednesday, July 05, 2017 9:26 AM  
**To:** Nagle, Deborah; Tarah Heinzen; [kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org); Brennan, Ross; Molloy, Jennifer; Shenk, Kelly  
**Subject:** CAFO CWA Petition Meeting Follow Up  
**When:** Wednesday, July 05, 2017 1:30 PM-2:00 PM (UTC-05:00) Eastern Time (US & Canada).  
**Where:** Dial in: 1-866-299-3188; Passcode: 202-564-1185

Message

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**From:** Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]  
**Sent:** 2/2/2018 6:33:16 PM  
**To:** Magruder, DeMara [Magruder.Demara@epa.gov]  
**Subject:** RE: DeMara - can you find best date/time for this meeting

Great. Let's shoot for the 27<sup>th</sup>. Thanks! I'll notify the FWW folks on the other end.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Magruder, DeMara  
**Sent:** Friday, February 02, 2018 9:44 AM  
**To:** Brennan, Ross <Brennan.Ross@epa.gov>  
**Subject:** RE: DeMara - can you find best date/time for this meeting

Both are good. The 27<sup>th</sup> is better though. Jenny Molloy has something on her calendar on the 20<sup>th</sup> at that time. But everyone else is free. Everybody is available on the 27<sup>th</sup> though.

---

**From:** Brennan, Ross  
**Sent:** Friday, February 02, 2018 9:42 AM  
**To:** Magruder, DeMara <Magruder.Demara@epa.gov>  
**Subject:** RE: DeMara - can you find best date/time for this meeting

Are both dates equally good for EPA folks? I think you suggested the 20<sup>th</sup> was looking better.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Magruder, DeMara  
**Sent:** Friday, February 02, 2018 9:37 AM  
**To:** Brennan, Ross <Brennan.Ross@epa.gov>  
**Subject:** RE: DeMara - can you find best date/time for this meeting

Will do. Should I send out the invite? If so, for which day?

---

**From:** Brennan, Ross  
**Sent:** Thursday, February 01, 2018 3:38 PM  
**To:** Magruder, DeMara <Magruder.Demara@epa.gov>  
**Subject:** FW: DeMara - can you find best date/time for this meeting

DeMara – please add Carol Galloway to the FWW call list – see below

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Greenwald, Kathryn  
**Sent:** Thursday, February 01, 2018 3:25 PM  
**To:** Brennan, Ross <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>; Buterbaugh, Kristin <[Buterbaugh.Kristin@epa.gov](mailto:Buterbaugh.Kristin@epa.gov)>  
**Subject:** RE: DeMara - can you find best date/time for this meeting

Hi Ross,  
Please add Carol Galloway (OECA/OC) to the list of invitees as well. She may or may not participate, depending on the agenda.

Thanks,  
Kathy

---

**From:** Brennan, Ross  
**Sent:** Wednesday, January 31, 2018 4:34 PM  
**To:** Greenwald, Kathryn <[Greenwald.Kathryn@epa.gov](mailto:Greenwald.Kathryn@epa.gov)>; Buterbaugh, Kristin <[Buterbaugh.Kristin@epa.gov](mailto:Buterbaugh.Kristin@epa.gov)>  
**Subject:** RE: DeMara - can you find best date/time for this meeting

Got it – glad you're still in the gang

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Greenwald, Kathryn  
**Sent:** Wednesday, January 31, 2018 4:30 PM  
**To:** Brennan, Ross <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>; Buterbaugh, Kristin <[Buterbaugh.Kristin@epa.gov](mailto:Buterbaugh.Kristin@epa.gov)>  
**Subject:** RE: DeMara - can you find best date/time for this meeting

Thanks for the update, Ross, please keep me on your list of invitees.

Kathy

---

**From:** Brennan, Ross  
**Sent:** Wednesday, January 31, 2018 4:22 PM  
**To:** Buterbaugh, Kristin <[Buterbaugh.Kristin@epa.gov](mailto:Buterbaugh.Kristin@epa.gov)>; Greenwald, Kathryn <[Greenwald.Kathryn@epa.gov](mailto:Greenwald.Kathryn@epa.gov)>  
**Subject:** RE: DeMara - can you find best date/time for this meeting

FWW had wanted to hold regular calls with Deborah and other involved staff/managers to discuss issues of concern to them and other environmental group. Each call would have a theme, and the EPA and enviro invitee list would be tweaked according to the theme. With Deborah's departure we put these calls on hold, but we're now ready to re-start them. We leave it to FWW to identify the agenda topic(s). This one (concerns with integrators) doesn't strike us as all that fruitful, but they reiterated that they'd like to cover that next. Our goal is to have someone from OECA and someone from OGC on each call. (This is only the second call!)

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Buterbaugh, Kristin  
**Sent:** Wednesday, January 31, 2018 4:11 PM  
**To:** Brennan, Ross <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>; Greenwald, Kathryn <[Greenwald.Kathryn@epa.gov](mailto:Greenwald.Kathryn@epa.gov)>  
**Subject:** RE: DeMara - can you find best date/time for this meeting

Hi Ross,

I am a contact, but I think Kathy should still be included (but that's up to you, Kathy).

What exactly is this meeting about? The rulemaking petition, or broader CAFO issues?

Thanks!

**Kristin Buterbaugh**  
Attorney-Adviser  
U.S. Environmental Protection Agency  
OECA - OCE - Water Enforcement Division  
WJC South 4112A  
1200 Pennsylvania Avenue, NW (Mail Code 2243A)  
Washington, DC 20460  
(202) 564-4479  
[Buterbaugh.Kristin@epa.gov](mailto:Buterbaugh.Kristin@epa.gov)

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**From:** Brennan, Ross  
**Sent:** Wednesday, January 31, 2018 3:08 PM  
**To:** Greenwald, Kathryn <[Greenwald.Kathryn@epa.gov](mailto:Greenwald.Kathryn@epa.gov)>; Buterbaugh, Kristin <[Buterbaugh.Kristin@epa.gov](mailto:Buterbaugh.Kristin@epa.gov)>  
**Subject:** FW: DeMara - can you find best date/time for this meeting

Kathy and Kristin

Did I hear correctly that Kristin should be our primary contact on CAFO enforcement these days? I ask just because we're trying to set up our next meeting with the FWW petitioners on CAFO issues (see below) and didn't want to shut out Kathy by mistake. Kathy, let me know if you want to be on the invite too!

Hope you both are doing well.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248



---

**From:** Brennan, Ross  
**Sent:** Wednesday, January 31, 2018 3:05 PM  
**To:** Magruder, DeMara <[Magruder.Demara@epa.gov](mailto:Magruder.Demara@epa.gov)>  
**Subject:** DeMara - can you find best date/time for this meeting

Hi DeMara,

Krissy Kasserman of Food and Water Watch has proposed four date/time combos for our next discussion with them on CAFO issues. Can you check calendars for the EPA folks and lock in a date/time that works for our attendees? Then I'll pass that along to Krissy for invites on her end.

See the info and proposed times below. Thanks for your help.

Attendees on EPA's end:

Marcus Zobrist  
Ross Brennan  
Jenny Molloy  
Nina Bonnelycke  
George Utting  
Simm Kupchan, OGC  
Kristin Buterbaugh, OECA

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Brennan, Ross  
**Sent:** Wednesday, January 31, 2018 3:00 PM  
**To:** 'Krissy Kasserman' <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)>  
**Subject:** RE: New plan

Thanks, Krissy. I'm passing this along to DeMara Magruder, our scheduler, who will ensure the right folks here are available. I suggest that DeMara find the best date for EPA folks and that I pass that date along to you to share with your folks.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Krissy Kasserman [<mailto:kkasserman@fwwatch.org>]  
**Sent:** Wednesday, January 31, 2018 12:46 PM  
**To:** Brennan, Ross <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>  
**Subject:** Re: New plan

Thanks Ross! I think so long as it's ok with y'all we'll go ahead with what I've proposed. It's what we had planned to discuss in October and it's definitely something that we cover in our rulemaking petition. A lot of our co-petitioners have

a lot of interest in this topic given the impacts it has on their communities. The dates we had originally thrown out are as follows:

Feb. 20 from 3-430 PM  
Feb. 21 from 3-430 PM  
Feb. 23 from 1-230 PM  
Feb. 27 from 3-430 PM

Those are all still options for us—do you want to let me know what works best for y'all? I'd advocate for some of the latter dates at this point only since it's almost February already, though we can totally make the earlier ones work if necessary.

Thanks so much!

Krissy

---

**From:** "Brennan, Ross" <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>  
**Date:** Tuesday, January 30, 2018 at 4:24 PM  
**To:** Krissy Kasserman <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)>  
**Subject:** RE: New plan

I think that would be fine, if you think that would be of interest to folks on your end. I'm not sure there's much we could say that would be helpful or within our control to explore, but we would be happy to listen.

Another idea – Not sure if you knew aquaculture is another issue our branch works on. I believe you have concerns there too. We could tell you about what we're doing and see if you have questions.

(I don't want to drive the agenda too much, since it's really your meeting.)

I assume the dates you proposed are still workable – I'll shop them around here and see if folks are available.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Krissy Kasserman [<mailto:kkasserman@fwwatch.org>]  
**Sent:** Tuesday, January 30, 2018 11:27 AM  
**To:** Brennan, Ross <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>  
**Subject:** FW: New plan

Hi Ross! Resending in case this was buried in your inbox. Just want to get something on the schedule before folks' availability starts to lessen. Thanks! Krissy

---

**From:** Krissy Kasserman <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)>  
**Date:** Thursday, January 25, 2018 at 3:00 PM  
**To:** "Brennan, Ross" <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>  
**Subject:** New plan

Hey Ross! Thanks so much for calling yesterday. I keep trying to make a minute in my schedule today to give you a ring but it's been a little crazy so I'm settling for emailing you instead. Tarah and I really appreciate your feedback on the topic we had originally proposed and we had a quick brainstorm last evening about other ideas. Here's what we settled on—it's somewhat similar to what we had proposed for our October call, but what if we discussed integrator liability issues and focused on a few key areas like Iowa and Maryland? We could have a discussion about the concentration that results in those areas from the integrators driving growth and density—and what this means for waterways (but also to some extent communities, drinking water, etc.). Does that sound more suitable? I think it would be a productive for our folks for sure. Let me know—and feel free to give a call if you want to discuss—I should have some time between 430 and 5 today and I'm also free most of the day tomorrow.

Thanks!

-----  
**Krissy Kasserman**  
National Factory Farm Campaigner  
Food & Water Watch and Food & Water Action

O (919) 794-6381  
Ex. 6 Personal Privacy (PP)  
kkasserman@fwwatch.org

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Message

---

**From:** Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]  
**Sent:** 8/30/2017 4:37:10 PM  
**To:** Greenwald, Kathryn [Greenwald.Kathryn@epa.gov]  
**Subject:** FWW petition  
**Attachments:** citizens\_cafo\_cwa\_petition.pdf

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

Message

---

**From:** Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]  
**Sent:** 8/23/2018 3:01:39 PM  
**To:** Ziobro, Joseph [Ziobro.Joseph@epa.gov]  
**CC:** Utting, George [Utting.George@epa.gov]  
**Subject:** Joseph - a brief summary of the FWW petition  
**Attachments:** Summary - FWW Petition.docx; Short Summary - FWW Petition.docx

Joseph, I'm sharing a brief summary of the FWW petition that you can plug into your backgrounder for Andrew. I'm also attaching the longer briefing document we used for Sally – not for distribution but just for your own reference as you spend more time on CAFO regulatory issues.

George, I invite you to take a look at this brief one-pager and offer suggestions to Joseph if you have them. This is in preparation for our discussion with Andrew today, where we will be presenting him with background on a range of issues that he might want to surface with Anna and the other politicals who will be attending the AADG meeting. The idea is just to let folks know of questions that the industry folks might raise, in order to avoid surprises at the meeting.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

## **Overview – March 8, 2017 CAFO Rulemaking Petition from Food & Water Watch and Others**

On March 8, 2017, Food and Water Watch and 34 other environmental groups filed a petition seeking changes to the NPDES CAFO regulations that would bring more AFOs and CAFOs into the NPDES permit program and impose stricter controls in NPDES permits for CAFOs.

Petitioners sought the following:

1. Establish an evidentiary presumption that certain CAFOs actually discharge
2. Re-interpret agricultural stormwater exemption so that no discharges resulting from CAFO activities are exempt as non-point source pollution
3. Ensure that integrators who meet the CWA definition of owner or operator are co-permitted with contract producers
4. Revise the regulatory definitions of “medium CAFO” and “production area” and revise designation authorities
5. Require water quality monitoring in all CAFO NPDES permits
6. EPA should revise CAFO effluent guidelines

EPA has acknowledged receipt of the petition but has not yet formally responded. NPDES program staff and managers in OWM, OECA, and OGC have held occasional calls with the petitioners to listen to their concerns regarding the water quality impacts of animal agriculture.

Message

---

**From:** Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]  
**Sent:** 8/10/2018 9:37:16 PM  
**To:** Gutierrez, Sally [Gutierrez.Sally@epa.gov]  
**CC:** Klinger, Adam [Klinger.Adam@epa.gov]; Weiss, Kevin [Weiss.Kevin@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Utting, George [Utting.George@epa.gov]; Bonnelycke, Nina [Bonnelycke.Nina@epa.gov]; Ziobro, Joseph [Ziobro.Joseph@epa.gov]; Jones, Kristin [jones.kristin@epa.gov]; Kormondy, Charlene [kormondy.charlene@epa.gov]  
**Subject:** Sally - some Rural Branch items for the ACWA meeting  
**Attachments:** State CAFO Program Challenges.docx; tracksum\_endyear\_2017.pdf; citizens\_cafo\_cwa\_petition.pdf; Summary - FWW Petition.docx

Sally, here are a few things for your trip.

1. Jenny and I wanted to pass along some talkers that you might draw upon in your hallway conversations. These are provided in the attached one-pager, although it's not a document to print/distribute – more a gathering of thoughts illustrating the challenges associated with CAFO permitting and sharing your sympathy/support for the state folks carrying out a frustrating part of the NPDES program.
2. I've also attached a copy of Nina's implementation spreadsheet, which shares the permitting numbers state-by-state.
3. Hope you have a nice chat with Tarah Heinzen of Food and Water Watch. If you want to glance at them on the plane, I've attached a copy of George's backgrounder and the FWW petition. (BTW, you could also mention you'll be in Chicago for the AADG meeting and your staff would be happy to coordinate a visit to a stakeholder discussion if she thinks of an opportunity in the area.)

Happy travels!

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

August 24, 2017

## Ex. 5 Deliberative Process (DP)

### 3. Lee Forsgren briefing on animal ag

#### a. Presenters

*Presenters will be Jenny (industry, regs, implementation) and Joseph (partnerships). I'll be out on 8/31 but I'll be cheering for you.*

#### b. Inviting OGC

*Mary Ellen and Simma will be out but Steve can probably attend. I'll send them the slide set.*

#### c. Slide tweak to mention FWW petition

*I showed DN the tweak and sent the revised slideset to Erika and Frank. Erika was optimistic that they could swap this one in.*

## Ex. 5 Deliberative Process (DP)





Message

---

**From:** Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]  
**Sent:** 7/25/2018 1:29:17 PM  
**To:** Krissy Kasserman [kkasserman@fwwatch.org]  
**CC:** Utting, George [Utting.George@epa.gov]  
**Subject:** RE: Krissy and Tarah - a quick update

Looking forward to it. George Utting, also in my branch, will join as well.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Krissy Kasserman [mailto:kkasserman@fwwatch.org]  
**Sent:** Wednesday, July 25, 2018 8:49 AM  
**To:** Brennan, Ross <Brennan.Ross@epa.gov>  
**Subject:** Re: Krissy and Tarah - a quick update

Here's call info for our chat on Thursday at noon. Thanks!

### Join by Telephone

For higher quality, dial a number based on your current location.

Dial: US: +1 669 900 6833 or +1 646 876 9923 or +1 877 853 5247 (Toll Free) or +1 877 369 0926 (Toll Free)  
Meeting ID: 809 229 247

---

**From:** "Brennan, Ross" <Brennan.Ross@epa.gov>  
**Date:** Tuesday, July 24, 2018 at 3:47 PM  
**To:** Krissy Kasserman <kkasserman@fwwatch.org>  
**Subject:** RE: Krissy and Tarah - a quick update

Best is Thursday noon, second-best is Thursday at two. Want to set something up for either of those two time slots?

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Krissy Kasserman [mailto:kkasserman@fwwatch.org]  
**Sent:** Monday, July 23, 2018 3:03 PM  
**To:** Tarah Heinzen <theinzen@fwwatch.org>; Brennan, Ross <Brennan.Ross@epa.gov>  
**Subject:** Re: Krissy and Tarah - a quick update

Hi Ross! Apologies for the delay in this response—I'm still catching up from vacation. And I hope you also enjoyed vacation!

Yes—let's find time this week to chat. Are you available Wednesday at 12 or 1 or Thursday at 12, 1, 2 or 4?

Thanks,

Krissy

---

**From:** Tarah Heinzen <theinzen@fwwatch.org>  
**Date:** Thursday, July 12, 2018 at 6:59 PM  
**To:** "Brennan, Ross" <Brennan.Ross@epa.gov>, Krissy Kasserman <kkasserman@fwwatch.org>  
**Subject:** Re: Krissy and Tarah - a quick update

Hi Ross, thanks a lot for this update and your earlier email about the CBF decision. I'm glad to hear you've had the opportunity to discuss the petition with Sally Gutierrez and that she's interested in continuing the conversation. Krissy is out until next Wednesday, but I think we'll be able to find a time the week of the 23<sup>rd</sup>. We'll try to send you some available times late next week.

Looking forward to catching up and have a great vacation,  
Tarah

**Tarah Heinzen**  
Staff Attorney  
Food & Water Watch and Food & Water Action

O (202) 683-2457

Ex. 6 Personal Privacy (PP)

theinzen@fwwatch.org

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---

**From:** "Brennan, Ross" <Brennan.Ross@epa.gov>  
**Date:** Wednesday, July 11, 2018 at 11:18 AM  
**To:** Krissy Kasserman <kkasserman@fwwatch.org>, Tarah Heinzen <theinzen@fwwatch.org>  
**Subject:** Krissy and Tarah - a quick update

Greetings, Tarah and Krissy,

I wanted to let you know we had a chance to sit down with our acting division director, Sally Gutierrez, today for a detailed discussion of the CAFO rulemaking petition and the subsequent calls between EPA and the petitioners. Sally is very interested in proceeding with the dialogue and would like to meet – face to face – if possible to discuss how best to proceed. I'm about to head out of town for vacation, but perhaps we could identify a time during the week of July 23 when I could catch up with you to discuss some next steps, including a discussion with Sally shortly thereafter.

Hope all is well.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

Message

---

**From:** Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]  
**Sent:** 8/9/2017 5:00:07 PM  
**To:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Subject:** RE: CAFO petition

It's just you and me and George on the agenda. I'd like to consider Kelly and the CAFO team here – any objection?

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Nagle, Deborah  
**Sent:** Wednesday, August 09, 2017 12:10 PM  
**To:** Brennan, Ross <Brennan.Ross@epa.gov>  
**Subject:** FW: CAFO petition

Here is Kasserman's contact information

---

**From:** Krissy Kasserman [mailto:kkasserman@fwwatch.org]  
**Sent:** Wednesday, July 05, 2017 3:56 PM  
**To:** Nagle, Deborah <Nagle.Deborah@epa.gov>  
**Cc:** Tarah Heinzen <theinzen@fwwatch.org>  
**Subject:** CAFO petition

Hi Deborah,

Thanks so much for taking the time to talk with us today about our petition and communication moving forward. The phone line cut out for me several times so I apologize if the back-and-forth conversation was difficult. My contact information is below, and I look forward to working with you to set up a call in early August.

Best,

Krissy

--

Krissy Kasserman  
National Factory Farms Campaigner  
Food & Water Watch  
kkasserman@fwwatch.org  
(919) 794-6381 (o)

Ex. 6 Personal Privacy (PP)

## Appointment

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**From:** Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]  
**Sent:** 7/25/2018 1:28:20 PM  
**To:** Utting, George [Utting.George@epa.gov]  
**Subject:** -Call with Krissy and Tarah  
**Location:** Ross's office  
**Start:** 7/26/2018 4:00:00 PM  
**End:** 7/26/2018 4:30:00 PM  
**Show Time As:** Tentative

**Required Attendees:** Utting, George

### Join by Telephone

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**Meeting ID:** 809 229 247

**From:** "Brennan, Ross" <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>  
**Date:** Tuesday, July 24, 2018 at 3:47 PM  
**To:** Krissy Kasserman <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)>  
**Subject:** RE: Krissy and Tarah - a quick update

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---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

**From:** Krissy Kasserman [mailto:[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)]  
**Sent:** Monday, July 23, 2018 3:03 PM  
**To:** Tarah Heinzen <[theinzen@fwwatch.org](mailto:theinzen@fwwatch.org)>; Brennan, Ross <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>  
**Subject:** Re: Krissy and Tarah - a quick update

Hi Ross! Apologies for the delay in this response—I'm still catching up from vacation. And I hope you also enjoyed vacation!

Yes—let's find time this week to chat. Are you available Wednesday at 12 or 1 or Thursday at 12, 1, 2 or 4?

Thanks,

Krissy

**From:** Tarah Heinzen <[theinzen@fwwatch.org](mailto:theinzen@fwwatch.org)>  
**Date:** Thursday, July 12, 2018 at 6:59 PM  
**To:** "Brennan, Ross" <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>, Krissy Kasserman <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)>  
**Subject:** Re: Krissy and Tarah - a quick update

Hi Ross, thanks a lot for this update and your earlier email about the CBF decision. I'm glad to hear you've had the opportunity to discuss the petition with Sally Gutierrez and that she's interested in continuing the conversation. Krissy is out until next Wednesday, but I think we'll be able to find a time the week of the 23<sup>rd</sup>. We'll try to send you some available times late next week.

Looking forward to catching up and have a great vacation,  
Tarah

**Tarah Heinzen**  
Staff Attorney  
[Food & Water Watch](#) and [Food & Water Action](#)

O (202) 683-2457

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**From:** "Brennan, Ross" <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>  
**Date:** Wednesday, July 11, 2018 at 11:18 AM  
**To:** Krissy Kasserman <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)>, Tarah Heinzen <[theinzen@fwwatch.org](mailto:theinzen@fwwatch.org)>  
**Subject:** Krissy and Tarah - a quick update

Greetings, Tarah and Krissy,

I wanted to let you know we had a chance to sit down with our acting division director, Sally Gutierrez, today for a detailed discussion of the CAFO rulemaking petition and the subsequent calls between EPA and the petitioners. Sally is very interested in proceeding with the dialogue and would like to meet – face to face – if possible to discuss how best to proceed. I'm about to head out of town for vacation, but perhaps we could identify a time during the week of July 23 when I could catch up with you to discuss some next steps, including a discussion with Sally shortly thereafter.

Hope all is well.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management

(202) 564-3248



Message

---

**From:** Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]  
**Sent:** 2/26/2018 2:43:15 PM  
**To:** Magruder, DeMara [Magruder.Demara@epa.gov]  
**Subject:** RE: DeMara - agenda to attach

Fantastic – thanks for the quick turn!

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Magruder, DeMara  
**Sent:** Monday, February 26, 2018 9:40 AM  
**To:** Brennan, Ross <Brennan.Ross@epa.gov>  
**Subject:** RE: DeMara - agenda to attach

Will do!

---

**From:** Brennan, Ross  
**Sent:** Monday, February 26, 2018 9:29 AM  
**To:** Magruder, DeMara <Magruder.Demara@epa.gov>  
**Cc:** Molloy, Jennifer <molloy.jennifer@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>; Utting, George <Utting.George@epa.gov>  
**Subject:** DeMara - agenda to attach

DeMara – do you mind attaching this agenda (attached Word document) to the calendar invite for tomorrow’s call with FWW? Could you also cut/paste the call-in number from the agenda into the calendar invite so folks can see it clearly? Thanks.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Krissy Kasserman [mailto:kkasserman@fwwatch.org]  
**Sent:** Friday, February 23, 2018 9:25 AM  
**To:** Brennan, Ross <Brennan.Ross@epa.gov>  
**Subject:** Re: Krissy - Agenda for next week's call?

Hi Ross! See attached agenda (call-in information is there as well). We're still trying to confirm that someone from Iowa Citizens for Community Improvement will be able to participate, but otherwise this is final. Thanks so much & have a great weekend!

Krissy

---

**From:** Brennan, Ross <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>  
**Sent:** Thursday, February 22, 2018 7:29:35 AM  
**To:** Krissy Kasserman  
**Subject:** Re: Krissy - Agenda for next week's call?

Sounds good. Thanks.

On Feb 21, 2018, at 11:10 AM, Krissy Kasserman <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)> wrote:

Hi Ross! Yep, we actually had a prep meeting yesterday and I was planning to follow up with you ASAP. Still going with the topic we initially discussed--- community level impacts resulting from the concentration you often see with vertical integration of CAFO's. I think we'll have community members discuss their experiences on Maryland's eastern shore, in Arkansas, and potentially in Iowa. I'm hoping to have a more detailed agenda put together today to share. Sound ok? Thanks for the reminder!

---

**From:** Brennan, Ross <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>  
**Sent:** Wednesday, February 21, 2018 11:04:55 AM  
**To:** Krissy Kasserman  
**Subject:** Krissy - Agenda for next week's call?

Hey Krissy,

Just checking in to see whether you've identified topic areas for the call. Just want to be sure I have the right people in the room in our end.

If not yet, no worries – just wanted to check.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Krissy Kasserman [<mailto:kkasserman@fwwatch.org>]  
**Sent:** Tuesday, February 06, 2018 1:26 PM  
**To:** Brennan, Ross <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>  
**Subject:** Re: New plan

Hi Ross! Here's a call-in number for the 27<sup>th</sup>. Still working on an agenda. Thanks!

1 877 853 5247 (Toll Free)

Meeting ID: 867 116 664

---

**From:** Krissy Kasserman <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)>  
**Date:** Friday, February 2, 2018 at 4:02 PM  
**To:** "Brennan, Ross" <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>  
**Subject:** Re: New plan

Thank you, Ross! I appreciate your help in restarting these meetings—they're really valuable for the people we work with in factory farm-impacted communities. I'll notify our people and will send a call-in number ASAP! Will get back to you with an agenda soon as well.

Best,

Krissy

---

**From:** "Brennan, Ross" <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>  
**Date:** Friday, February 2, 2018 at 1:34 PM  
**To:** Krissy Kasserman <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)>  
**Subject:** FW: New plan

Hi Krissy!

Looks like 2/27 at 3:00 is the best option. We'll plan on that, and you can notify your folks. I don't yet have a call-in number here (our system is going through an awkward transition), but if you have one feel free to share it with me and we'll use that. Have a great weekend.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Brennan, Ross  
**Sent:** Thursday, February 01, 2018 1:00 PM  
**To:** 'Krissy Kasserman' <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)>  
**Subject:** RE: New plan

Hi Krissy,

So far the best option for us is 2/20 at 3:00, and the second-best option is 2/27 at 3:00. It'll probably be a day or two before we can narrow it down further – hope this is OK.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Krissy Kasserman [<mailto:kkasserman@fwwatch.org>]  
**Sent:** Wednesday, January 31, 2018 3:23 PM  
**To:** Brennan, Ross <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>  
**Subject:** Re: New plan

That's perfect. Thanks so much, Ross!

---

**From:** "Brennan, Ross" <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>  
**Date:** Wednesday, January 31, 2018 at 2:59 PM

**To:** Krissy Kasserman <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)>

**Subject:** RE: New plan

Thanks, Krissy. I'm passing this along to DeMara Magruder, our scheduler, who will ensure the right folks here are available. I suggest that DeMara find the best date for EPA folks and that I pass that date along to you to share with your folks.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Krissy Kasserman [<mailto:kkasserman@fwwatch.org>]

**Sent:** Wednesday, January 31, 2018 12:46 PM

**To:** Brennan, Ross <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>

**Subject:** Re: New plan

Thanks Ross! I think so long as it's ok with y'all we'll go ahead with what I've proposed. It's what we had planned to discuss in October and it's definitely something that we cover in our rulemaking petition. A lot of our co-petitioners have a lot of interest in this topic given the impacts it has on their communities. The dates we had originally thrown out are as follows:

Feb. 20 from 3-430 PM

Feb. 21 from 3-430 PM

Feb. 23 from 1-230 PM

Feb. 27 from 3-430 PM

Those are all still options for us—do you want to let me know what works best for y'all? I'd advocate for some of the latter dates at this point only since it's almost February already, though we can totally make the earlier ones work if necessary.

Thanks so much!

Krissy

---

**From:** "Brennan, Ross" <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>

**Date:** Tuesday, January 30, 2018 at 4:24 PM

**To:** Krissy Kasserman <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)>

**Subject:** RE: New plan

I think that would be fine, if you think that would be of interest to folks on your end. I'm not sure there's much we could say that would be helpful or within our control to explore, but we would be happy to listen.

Another idea – Not sure if you knew aquaculture is another issue our branch works on. I believe you have concerns there too. We could tell you about what we're doing and see if you have questions.

(I don't want to drive the agenda too much, since it's really your meeting.)

I assume the dates you proposed are still workable – I'll shop them around here and see if folks are available.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Krissy Kasserman [mailto:kkasserman@fwwatch.org]  
**Sent:** Tuesday, January 30, 2018 11:27 AM  
**To:** Brennan, Ross <Brennan.Ross@epa.gov>  
**Subject:** FW: New plan

Hi Ross! Resending in case this was buried in your inbox. Just want to get something on the schedule before folks' availability starts to lessen. Thanks! Krissy

---

**From:** Krissy Kasserman <kkasserman@fwwatch.org>  
**Date:** Thursday, January 25, 2018 at 3:00 PM  
**To:** "Brennan, Ross" <Brennan.Ross@epa.gov>  
**Subject:** New plan

Hey Ross! Thanks so much for calling yesterday. I keep trying to make a minute in my schedule today to give you a ring but it's been a little crazy so I'm settling for emailing you instead. Tarah and I really appreciate your feedback on the topic we had originally proposed and we had a quick brainstorm last evening about other ideas. Here's what we settled on—it's somewhat similar to what we had proposed for our October call, but what if we discussed integrator liability issues and focused on a few key areas like Iowa and Maryland? We could have a discussion about the concentration that results in those areas from the integrators driving growth and density—and what this means for waterways (but also to some extent communities, drinking water, etc.). Does that sound more suitable? I think it would be a productive for our folks for sure. Let me know—and feel free to give a call if you want to discuss—I should have some time between 430 and 5 today and I'm also free most of the day tomorrow.

Thanks!

-----  
**Krissy Kasserman**  
National Factory Farm Campaigner  
Food & Water Watch and Food & Water Action

O (919) 794-6381  
Ex. 6 Personal Privacy (PP)  
[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)

Fighting for a livable planet for ALL – powered by people like YOU. [Donate.](#)

Message

---

**From:** Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]  
**Sent:** 2/26/2018 2:26:35 PM  
**To:** Krissy Kasserman [kkasserman@fwwatch.org]  
**Subject:** RE: Krissy - Agenda for next week's call?

Thanks, Krissy. Will share this with my EPA colleagues. Talk to you tomorrow.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Krissy Kasserman [mailto:kkasserman@fwwatch.org]  
**Sent:** Friday, February 23, 2018 9:25 AM  
**To:** Brennan, Ross <Brennan.Ross@epa.gov>  
**Subject:** Re: Krissy - Agenda for next week's call?

Hi Ross! See attached agenda (call-in information is there as well). We're still trying to confirm that someone from Iowa Citizens for Community Improvement will be able to participate, but otherwise this is final. Thanks so much & have a great weekend!

Krissy

---

**From:** Brennan, Ross <Brennan.Ross@epa.gov>  
**Sent:** Thursday, February 22, 2018 7:29:35 AM  
**To:** Krissy Kasserman  
**Subject:** Re: Krissy - Agenda for next week's call?

Sounds good. Thanks.

On Feb 21, 2018, at 11:10 AM, Krissy Kasserman <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)> wrote:

Hi Ross! Yep, we actually had a prep meeting yesterday and I was planning to follow up with you ASAP. Still going with the topic we initially discussed--- community level impacts resulting from the concentration you often see with vertical integration of CAFO's. I think we'll have community members discuss their experiences on Maryland's eastern shore, in Arkansas, and potentially in Iowa. I'm hoping to have a more detailed agenda put together today to share. Sound ok? Thanks for the reminder!

---

**From:** Brennan, Ross <Brennan.Ross@epa.gov>  
**Sent:** Wednesday, February 21, 2018 11:04:55 AM  
**To:** Krissy Kasserman  
**Subject:** Krissy - Agenda for next week's call?

Hey Krissy,

Just checking in to see whether you've identified topic areas for the call. Just want to be sure I have the right people in the room in our end.

If not yet, no worries – just wanted to check.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Krissy Kasserman [<mailto:kkasserman@fwwatch.org>]  
**Sent:** Tuesday, February 06, 2018 1:26 PM  
**To:** Brennan, Ross <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>  
**Subject:** Re: New plan

Hi Ross! Here's a call-in number for the 27<sup>th</sup>. Still working on an agenda. Thanks!

1 877 853 5247 (Toll Free)

Meeting ID: 867 116 664

---

**From:** Krissy Kasserman <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)>  
**Date:** Friday, February 2, 2018 at 4:02 PM  
**To:** "Brennan, Ross" <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>  
**Subject:** Re: New plan

Thank you, Ross! I appreciate your help in restarting these meetings—they're really valuable for the people we work with in factory farm-impacted communities. I'll notify our people and will send a call-in number ASAP! Will get back to you with an agenda soon as well.

Best,

Krissy

---

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**Subject:** FW: New plan

Hi Krissy!

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Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management

(202) 564-3248

---

**From:** Brennan, Ross  
**Sent:** Thursday, February 01, 2018 1:00 PM  
**To:** 'Krissy Kasserman' <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)>  
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**Date:** Wednesday, January 31, 2018 at 2:59 PM  
**To:** Krissy Kasserman <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)>  
**Subject:** RE: New plan

Thanks, Krissy. I'm passing this along to DeMara Magruder, our scheduler, who will ensure the right folks here are available. I suggest that DeMara find the best date for EPA folks and that I pass that date along to you to share with your folks.

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Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

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**To:** Brennan, Ross <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>  
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Krissy

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**Date:** Thursday, January 25, 2018 at 3:00 PM  
**To:** "Brennan, Ross" <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>  
**Subject:** New plan

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evening about other ideas. Here's what we settled on—it's somewhat similar to what we had proposed for our October call, but what if we discussed integrator liability issues and focused on a few key areas like Iowa and Maryland? We could have a discussion about the concentration that results in those areas from the integrators driving growth and density—and what this means for waterways (but also to some extent communities, drinking water, etc.). Does that sound more suitable? I think it would be a productive for our folks for sure. Let me know—and feel free to give a call if you want to discuss—I should have some time between 430 and 5 today and I'm also free most of the day tomorrow.

Thanks!

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**Krissy Kasserman**

National Factory Farm Campaigner

Food & Water Watch and Food & Water Action

O (919) 794-6381

Ex. 6 Personal Privacy (PP)

[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)

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Message

---

**From:** Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]  
**Sent:** 10/4/2017 8:09:22 PM  
**To:** Bonnelycke, Nina [Bonnelycke.Nina@epa.gov]  
**Subject:** RE: Need quick assistance - key docs for Marcus, Cindy

Will do. That is a great resource.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

---

**From:** Bonnelycke, Nina  
**Sent:** Monday, October 02, 2017 10:45 AM  
**To:** Brennan, Ross <Brennan.Ross@epa.gov>  
**Cc:** Utting, George <Utting.George@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Chan, Jennifer <Chan.Jennifer@epa.gov>; Chumble, Prasad <Chumble.Prasad@epa.gov>; Jones, Kristin <jones.kristin@epa.gov>; Mcmorrow, Karly <mcmorrow.karly@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Ziobro, Joseph <Ziobro.Joseph@epa.gov>  
**Subject:** RE: Need quick assistance - key docs for Marcus, Cindy

Probably could also add the NPDES CAFO status report: [https://www.epa.gov/sites/production/files/2017-04/documents/tracksum\\_endyear2016\\_v2.pdf](https://www.epa.gov/sites/production/files/2017-04/documents/tracksum_endyear2016_v2.pdf).

~~~~~  
Nina J. Bonnelycke
Water Permits Division
Office of Wastewater Management
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W., 4203M
Washington, D.C. 20460
(202)564-0764

From: Utting, George
Sent: Friday, September 29, 2017 4:34 PM
To: Molloy, Jennifer <molloy.jennifer@epa.gov>; Brennan, Ross <Brennan.Ross@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>; Chan, Jennifer <Chan.Jennifer@epa.gov>; Chumble, Prasad <Chumble.Prasad@epa.gov>; Jones, Kristin <jones.kristin@epa.gov>; Mcmorrow, Karly <mcmorrow.karly@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Ziobro, Joseph <Ziobro.Joseph@epa.gov>
Cc: Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Simbanin, Cynthia <Simbanin.Cynthia@epa.gov>
Subject: RE: Need quick assistance - key docs for Marcus, Cindy

Oh yes. That's an important – and active – matter.

From: Molloy, Jennifer
Sent: Friday, September 29, 2017 4:27 PM
To: Brennan, Ross <Brennan.Ross@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>; Chan, Jennifer <Chan.Jennifer@epa.gov>; Chumble, Prasad <Chumble.Prasad@epa.gov>; Jones, Kristin <jones.kristin@epa.gov>;

Mcmorrow, Karly <mcmorrow.karly@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Utting, George <Utting.George@epa.gov>; Ziobro, Joseph <Ziobro.Joseph@epa.gov>

Cc: Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Simbanin, Cynthia <Simbanin.Cynthia@epa.gov>

Subject: RE: Need quick assistance - key docs for Marcus, Cindy

Most things aren't urgent, but among the small handful of things I added is the FWW petition. We (including Deborah) have met twice with the petitioners, and there's another meeting scheduled on October 5. **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP)

Jenny Molloy
U.S. EPA
Water Permits Division
202.564.1939
molloy.jennifer@epa.gov

From: Brennan, Ross

Sent: Friday, September 29, 2017 3:59 PM

To: Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>; Chan, Jennifer <Chan.Jennifer@epa.gov>; Chumble, Prasad <Chumble.Prasad@epa.gov>; Jones, Kristin <jones.kristin@epa.gov>; Mcmorrow, Karly <mcmorrow.karly@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Utting, George <Utting.George@epa.gov>; Ziobro, Joseph <Ziobro.Joseph@epa.gov>

Cc: Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Simbanin, Cynthia <Simbanin.Cynthia@epa.gov>

Subject: Need quick assistance - key docs for Marcus, Cindy

Folks,

I'd appreciate your assistance by COB Monday in compiling some of RB's key documents to get Marcus and Cindy off on the right foot.

I've created a temporary directory at G:_WPD\RURAL\Docs for Marcus, Cindy for these documents.

Ex. 5 Deliberative Process (DP)

I really appreciated it when you guys developed a similar library for me this spring. It helped me immediately become an expert (ahem) on everything RB does.

Ross Brennan
Acting Chief, Rural Branch
EPA Office of Wastewater Management
(202) 564-3248

Message

From: Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]
Sent: 2/22/2018 11:56:47 PM
To: Utting, George [Utting.George@epa.gov]
Subject: RE: Andrew - elaboration on one of Rural Branch's weekly report bullets

Baby steps!

Ross Brennan
Acting Chief, Rural Branch
EPA Office of Wastewater Management
(202) 564-3248

From: Utting, George
Sent: Thursday, February 22, 2018 5:30 PM
To: Brennan, Ross <Brennan.Ross@epa.gov>
Subject: Re: Andrew - elaboration on one of Rural Branch's weekly report bullets

Thanks. You might want to invite him to participate in one the meetings at some point. Deborah seemed to suggest at one point that they might have an [occasional ??] meeting with Andrew.

On Feb 22, 2018, at 5:25 PM, Brennan, Ross <Brennan.Ross@epa.gov> wrote:

FYI

Ross Brennan
Acting Chief, Rural Branch
EPA Office of Wastewater Management
(202) 564-3248

From: Brennan, Ross
Sent: Thursday, February 22, 2018 5:23 PM
To: Sawyers, Andrew <Sawyers.Andrew@epa.gov>
Cc: Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Subject: Andrew - elaboration on one of Rural Branch's weekly report bullets

Andrew,

Here's a bit more information in response to your question about the Food and Water Watch call mentioned in the Rural Branch highlights.

As a result of the March 2017 petition we received from Food and Water Watch and other environmental groups seeking changes to the CAFO regulations, we agreed to attend occasional calls to hear their concerns about specific implementation issues. For next week's call (the second one they've requested) they'd like to talk to us about water quality and health-related issues they're seeing with regard to large vertical integrators in places like the Eastern Shore. They understand that we are only in listening mode but they appreciate a chance to be heard. We include OECA since they are talking about

on-the-ground issues that might have an enforcement angle. Will pass along to you anything interesting that comes from the call.

Ross Brennan
Acting Chief, Rural Branch
EPA Office of Wastewater Management
(202) 564-3248

From: Farris, Erika D.
Sent: Thursday, February 22, 2018 2:30 PM
To: Brennan, Ross <Brennan.Ross@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>
Subject: RE: Rural Branch highlights for Andrew

Hi – Andrew was interested in a bit more info about this Rural Branch highlight. Could you please shoot him an email with some more details?

- Next Tuesday, February 27, Food and Water Watch and other environmental groups will meet with WPD members by conference call to discuss their environmental concerns with CAFOs. OECA and OGC staff are attending as well. Final agenda is TBD. (Brennan, Molloy, Utting, Bonnelycke)

From: Brennan, Ross
Sent: Wednesday, February 21, 2018 2:24 PM
To: Farris, Erika D. <Farris.Erika@epa.gov>; Thomas, Deborah R. <thomas.deborah@epa.gov>
Cc: Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>; Chan, Jennifer <Chan.Jennifer@epa.gov>; Chumble, Prasad <Chumble.Prasad@epa.gov>; Jones, Kristin <jones.kristin@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Ziobro, Joseph <Ziobro.Joseph@epa.gov>
Subject: Rural Branch highlights for Andrew

Here you go, Erika and Deborah. (Welcome, Deborah – looking forward to meeting you!)

- Next Tuesday, February 27, Food and Water Watch and other environmental groups will meet with WPD members by conference call to discuss their environmental concerns with CAFOs. OECA and OGC staff are attending as well. Final agenda is TBD. (Brennan, Molloy, Utting, Bonnelycke)
- Rural Branch members are attending the Aquaculture America 2018 conference this week, including participating in a “federal town hall” panel discussion with other members of the federal Interagency Workgroup on Aquaculture (IWG-A). (Molloy, Jones)

Ross Brennan
Acting Chief, Rural Branch
EPA Office of Wastewater Management
(202) 564-3248

Message

From: Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]
Sent: 1/2/2018 7:25:19 PM
To: Subramanian, Hema [Subramanian.Hema@epa.gov]; Shenk, Kelly [shenk.kelly@epa.gov]; Utting, George [Utting.George@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]
Subject: RE: Discussing CAFO Reg petitions/legal matters on Weekly Ag Advisor call

I like the list of topics but I do think the one on petitions and legal matters is probably best treated among R3 and HQ, at least initially. That way we could queue up the topic for the broader discussion among the CAFO coordinators and then the ag coordinators.

Ross Brennan
Acting Chief, Rural Branch
EPA Office of Wastewater Management
(202) 564-3248

From: Subramanian, Hema
Sent: Tuesday, January 02, 2018 12:40 PM
To: Shenk, Kelly <shenk.kelly@epa.gov>; Utting, George <Utting.George@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Galloway, Carol <Galloway.Carol@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>
Cc: Brennan, Ross <Brennan.Ross@epa.gov>
Subject: RE: Discussing CAFO Reg petitions/legal matters on Weekly Ag Advisor call

Jinx, Kelly beat me to responding! Yes, we certainly could split the topics apart.

These weekly calls are internal/invite only, unless a guest speaker is invited. They are generally just a half hour on Mondays, but am putting together some hour long calls to have some requested featured topics. The extra invited contacts can just be there to help informally discuss the topics or give a presentation if they'd like, depending on what's appropriate.

The other animal ag-specific topics requested (which I am working on separately) were:

Ex. 5 Deliberative Process (DP)

Other requested topics of interest to animal ag were:

- Partnerships around ag conservation practices - looking at the roles of various organizations and stakeholders and successful examples for how ag industry is working with its producers to motivate higher levels of ag conservation.
- Nutrient innovation challenges (e.g., Tulane & their winner)
- SRF & ag

---Hema.

Hema Subramanian
Special Assistant to the Senior Advisor for Agriculture (detail)
Office of the Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Phone (202) 564-5041
subramanian.hema@epa.gov

From: Shenk, Kelly
Sent: Tuesday, January 02, 2018 12:37 PM
To: Utting, George <Utting.George@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Galloway, Carol <Galloway.Carol@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>
Cc: Brennan, Ross <Brennan.Ross@epa.gov>
Subject: RE: Discussing CAFO Reg petitions/legal matters on Weekly Ag Advisor call

Yep, you found me out, George! If this topic is better for just a Region 3/HQ discussion I am fine with that. Here is the

Ex. 5 Deliberative Process (DP)

Kelly Shenk
Agriculture Advisor
EPA Region III Water Protection Division
shenk.kelly@epa.gov
410.267.5728

Mailing Address:
EPA Chesapeake Bay Program Office
410 Severn Avenue, Suite 112
Annapolis, MD 21403

From: Utting, George
Sent: Tuesday, January 02, 2018 12:06 PM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Subramanian, Hema

<Subramanian.Hema@epa.gov>; Galloway, Carol <Galloway.Carol@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>; Shenk, Kelly <shenk.kelly@epa.gov>

Cc: Brennan, Ross <Brennan.Ross@epa.gov>

Subject: RE: Discussing CAFO Reg petitions/legal matters on Weekly Ag Advisor call

Cc'ing Ross, Kevin, and Nizanna.

Ex. 5 Deliberative Process (DP)

At a glance, it appears that whoever submitted this request has a particular interest in Region 3.

For what it's worth, I see each of these matters as distinguishable from one another, and I'm not sure that apples to oranges comparisons here are meaningful.

What I think might be of interest across Regions is:

- (1) How we view the FWW petition and what we have done in response. OGC would need to be in on this, as would WPD mgmt. I am unaware of other petitions like that that we have at the moment.

Ex. 5 Deliberative Process (DP)

Also, for my information, are others allowed to participate on the ag advisor calls, or is it by invitation only? Also, are there other animal ag related topics on the table?

GU

From: Kupchan, Simma

Sent: Tuesday, January 02, 2018 12:02 PM

To: Molloy, Jennifer <molloy.jennifer@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Galloway, Carol <Galloway.Carol@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>; Shenk, Kelly <shenk.kelly@epa.gov>; Utting, George <Utting.George@epa.gov>

Subject: RE: Discussing CAFO Reg petitions/legal matters on Weekly Ag Advisor call

I'm back! I look forward to reconnecting with you all! I haven't caught up yet with MEL because she's been so busy, so I am not up to speed, but I'm happy to chat at your convenience.

Simma A. Kupchan
EPA Office of General Counsel
Water Law Office
202-564-3105
WJC North #7426Q

From: Molloy, Jennifer

Sent: Tuesday, January 02, 2018 12:00 PM

To: Subramanian, Hema <Subramanian.Hema@epa.gov>; Galloway, Carol <Galloway.Carol@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>; Shenk, Kelly <shenk.kelly@epa.gov>; Utting, George <Utting.George@epa.gov>

Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>

Subject: RE: Discussing CAFO Reg petitions/legal matters on Weekly Ag Advisor call

I suggest we wait until Simma is back and up-to-speed before we have this discussion. I don't recall when she's back. Sometime right around now I believe?

Jenny Molloy
U.S. EPA
Water Permits Division
202.564.1939
molloy.jennifer@epa.gov

From: Subramanian, Hema
Sent: Tuesday, January 2, 2018 11:46 AM
To: Galloway, Carol <Galloway.Carol@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Shenk, Kelly <shenk.kelly@epa.gov>; Utting, George <Utting.George@epa.gov>
Subject: Discussing CAFO Reg petitions/legal matters on Weekly Ag Advisor call

Hello all,

As most of you know, I'm starting to put together some featured discussion topics/presentations for the weekly Ag Advisor calls this year (Mondays at 2 pm), and thought I'd reach out to this group to brainstorm about how to build call on this requested topic:

Ex. 5 Deliberative Process (DP)

example: Food and Water Watch petition calling for overhaul of CAFO regulations, Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Would this be a good topic to loop the Regional Ag Advisors in with the CAFO NPDES/Compliance Coordinators, and if so, would it be easier to invite the Ag Advisors to a monthly Coordinators call or invite the Coordinators to an Ag Advisors call?

Would presentations be helpful? Obviously we should loop OGC in.

Thank you for your thoughts, and apologies to those of you who are on similar emails for other requested topics. I promise you won't all be on all of these emails, but it's easier to keep the threads separate. ☺

---Hema.

Hema Subramanian
Special Assistant to the Senior Advisor for Agriculture (detail)
Office of the Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Phone (202) 564-5041
subramanian.hema@epa.gov

Message

From: Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]
Sent: 6/28/2019 7:19:34 PM
To: Brennan, Ross [Brennan.Ross@epa.gov]
Subject: gesg

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)	IB	Petition	Food and Water Watch - Petition on Adequacy of CAFO regulation
Ex. 5 Deliberative Process (DP)			

Ross Brennan, Associate Director (Acting)
Water Permits Division
EPA Office of Wastewater Management
(202) 564-3248

Appointment

From: Brennan, Ross [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=4321E5DD218D46E381DBBD92CA1779AA-BRENNAN, ROSS]
Sent: 7/25/2018 1:28:15 PM
To: Brennan, Ross [Brennan.Ross@epa.gov]; Utting, George [Utting.George@epa.gov]
Subject: -Call with Krissy and Tarah
Location: Ross's office
Start: 7/26/2018 4:00:00 PM
End: 7/26/2018 4:30:00 PM
Show Time As: Busy

Required Attendees: Utting, George

Join by Telephone

For higher quality, dial a number based on your current location.

Dial: US: +1 669 900 6833 or +1 646 876 9923 or +1 877 853 5247 (Toll Free) or +1 877 369 0926 (Toll Free)
Meeting ID: 809 229 247

From: "Brennan, Ross" <Brennan.Ross@epa.gov>
Date: Tuesday, July 24, 2018 at 3:47 PM
To: Krissy Kasserman <kkasserman@fwwatch.org>
Subject: RE: Krissy and Tarah - a quick update

Best is Thursday noon, second-best is Thursday at two. Want to set something up for either of those two time slots?

Ross Brennan
Acting Chief, Rural Branch
EPA Office of Wastewater Management
(202) 564-3248

From: Krissy Kasserman [mailto:kkasserman@fwwatch.org]
Sent: Monday, July 23, 2018 3:03 PM
To: Tarah Heinzen <theinzen@fwwatch.org>; Brennan, Ross <Brennan.Ross@epa.gov>
Subject: Re: Krissy and Tarah - a quick update

Hi Ross! Apologies for the delay in this response—I'm still catching up from vacation. And I hope you also enjoyed vacation!

Yes—let's find time this week to chat. Are you available Wednesday at 12 or 1 or Thursday at 12, 1, 2 or 4?

Thanks,

Krissy

From: Tarah Heinzen <theinzen@fwwatch.org>
Date: Thursday, July 12, 2018 at 6:59 PM
To: "Brennan, Ross" <Brennan.Ross@epa.gov>, Krissy Kasserman <kkasserman@fwwatch.org>
Subject: Re: Krissy and Tarah - a quick update

Hi Ross, thanks a lot for this update and your earlier email about the CBF decision. I'm glad to hear you've had the opportunity to discuss the petition with Sally Gutierrez and that she's interested in continuing the conversation. Krissy is out until next Wednesday, but I think we'll be able to find a time the week of the 23rd. We'll try to send you some available times late next week.

Looking forward to catching up and have a great vacation,
Tarah

Tarah Heinzen
Staff Attorney
[Food & Water Watch](#) and [Food & Water Action](#)

O (202) 683-2457

Ex. 6 Personal Privacy (PP)

theinzen@fwwatch.org

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From: "Brennan, Ross" <Brennan.Ross@epa.gov>
Date: Wednesday, July 11, 2018 at 11:18 AM
To: Krissy Kasserman <kkasserman@fwwatch.org>, Tarah Heinzen <theinzen@fwwatch.org>
Subject: Krissy and Tarah - a quick update

Greetings, Tarah and Krissy,

I wanted to let you know we had a chance to sit down with our acting division director, Sally Gutierrez, today for a detailed discussion of the CAFO rulemaking petition and the subsequent calls between EPA and the petitioners. Sally is very interested in proceeding with the dialogue and would like to meet – face to face – if possible to discuss how best to proceed. I'm about to head out of town for vacation, but perhaps we could identify a time during the week of July 23 when I could catch up with you to discuss some next steps, including a discussion with Sally shortly thereafter.

Hope all is well.

Ross Brennan
Acting Chief, Rural Branch
EPA Office of Wastewater Management

(202) 564-3248

Appointment

From: Nagle, Deborah [Nagle.Deborah@epa.gov]
Sent: 5/2/2017 6:07:41 PM
To: Nagle, Deborah [Nagle.Deborah@epa.gov]; Brennan, Ross [Brennan.Ross@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Utting, George [Utting.George@epa.gov]; Bonnelycke, Nina [Bonnelycke.Nina@epa.gov]; Tarah Heinzen [theinzen@fwwatch.org]; Shenk, Kelly [shenk.kelly@epa.gov]; Wood, Robert [Wood.Robert@epa.gov]; Goodwin, Janet [Goodwin.Janet@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]; Levine, MaryEllen [levine.maryellen@epa.gov]
CC: Sarah Geers [sgeers@midwestadvocates.org]; Michele Merkel [mmerkel@fwwatch.org]; Scott Edwards [sedwards@fwwatch.org]; Terry, Jennifer [terry@dmww.com]; Robert Martin [rmarti57@jhu.edu]; Paul Hinson [hinsonpr@dmww.com]; Adam Kron [akron@environmentalintegrity.org]; Zipf, Lynn [Zipf.Lynn@epa.gov]

Subject: CAFO CWA Petition

Attachments: REAL ID Information 07-28-14.docx

Location: 1201 Constitution Avenue, N.W., Room 7217, William Jefferson Clinton Building; Dial in **Ex. 6 Personal Privacy (PP)**
Ex. 5 Deliberative Process (DP)

Start: 5/17/2017 6:00:00 PM

End: 5/17/2017 7:00:00 PM

Show Time As: Busy

Required Attendees: Nagle, Deborah; Brennan, Ross; Molloy, Jennifer; Utting, George; Bonnelycke, Nina; Tarah Heinzen; Shenk, Kelly; Wood, Robert; Shriner, Paul; Goodwin, Janet; Kupchan, Simma; Levine, MaryEllen
Optional Attendees: Sarah Geers; Michele Merkel; Scott Edwards; Terry, Jennifer; cruisermomii; Robert Martin; Paul Hinson; Adam Kron; Zipf, Lynn

Our office is located at 1201 Constitution Avenue, N.W., Washington, DC (Federal Triangle Metro stop). The entrance is on Constitution Avenue near the corner of 12th & Constitution Avenue, N.W. Once you arrive at the building, please present your identification to the Security Guard (please see attachment for proper identification). After completing the security procedures, please ask the guard to call 202-564-8478 (DeMara Magruder) so that someone can come down to escort you to the conference room.

Information for attendees who will be calling into the meeting:

Dial In: **Ex. 6 Personal Privacy (PP)**

Passcode: **Ex. 6 Personal Privacy (PP)**

Thank you.

Appointment

From: Kupchan, Simma [Kupchan.Simma@epa.gov]
Sent: 3/14/2017 4:49:27 PM
To: Kupchan, Simma [Kupchan.Simma@epa.gov]; Levine, MaryEllen [levine.maryellen@epa.gov]; Curtin, James [curtin.james@epa.gov]; Nagle, Deborah [Nagle.Deborah@epa.gov]; Abrams, Nancy [Abrams.Nancy@epa.gov]; Utting, George [Utting.George@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Duchovnay, Andrew [Duchovnay.Andrew@epa.gov]; Shenk, Kelly [shenk.kelly@epa.gov]; McGuigan, David [McGuigan.David@epa.gov]; Day, Christopher [Day.Christopher@epa.gov]; Havard, James [Havard.James@epa.gov]; Lewicki, Chris [Lewicki.Chris@epa.gov]; Pollins, Mark [Pollins.Mark@epa.gov]; Theis, Joseph [Theis.Joseph@epa.gov]; Bahk, Benjamin [Bahk.Benjamin@epa.gov]; Gable, Kelly [Gable.Kelly@epa.gov]; Buterbaugh, Kristin [Buterbaugh.Kristin@epa.gov]; Greenwald, Kathryn [Greenwald.Kathryn@epa.gov]; Shriner, Paul [Shriner.Paul@epa.gov]; Matuszko, Jan [Matuszko.Jan@epa.gov]
CC: Trulear, Brian [Trulear.Brian@epa.gov]; Zolandz, Mark [Zolandz.Mark@epa.gov]
Subject: CAFO Rulemaking Considerations
Location: DCRoomARN6013/DC-Ariel-Rios-OGC; DCConfARN-8662993188-C2025645476/WLO-Conf-Line/DC-Ariel-Rios-OGC
Start: 3/22/2017 8:00:00 PM
End: 3/22/2017 9:00:00 PM
Show Time As: Busy

Required Attendees: Kupchan, Simma; Levine, MaryEllen; Curtin, James; Nagle, Deborah; Abrams, Nancy; Utting, George; Molloy, Jennifer; Duchovnay, Andrew; Shenk, Kelly; McGuigan, David; Day, Christopher; Havard, James; Lewicki, Chris; Pollins, Mark; Theis, Joseph; Bahk, Benjamin; Gable, Kelly; Buterbaugh, Kristin; Greenwald, Kathryn; Paul Shriner; Jan Matuszko
Optional Attendees: Trulear, Brian; Zolandz, Mark

The purpose of this meeting is to evaluate and think about next steps on two drivers for considering new CAFO regulations:

Ex. 5 AC/AWP/DP

Appointment

From: Galloway, Carol [Galloway.Carol@epa.gov]
Sent: 10/17/2017 3:04:04 PM
To: Galloway, Carol [Galloway.Carol@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Greenwald, Kathryn [Greenwald.Kathryn@epa.gov]; Buterbaugh, Kristin [Buterbaugh.Kristin@epa.gov]

Subject: Sorry!! Call number added Recap of Oct CAFO call
Location: **Ex. 6 Personal Privacy (PP)**

Start: 10/18/2017 3:30:00 PM
End: 10/18/2017 4:00:00 PM
Show Time As: Busy

Required Attendees: Molloy, Jennifer; Greenwald, Kathryn; Buterbaugh, Kristin

Jenny, would you update us on:

- **Ex. 5 Deliberative Process (DP)**
- Petition to revise the CAFO regs

Ex. 5 Deliberative Process (DP)

Thanks!

BRIEFING MEMO
April 2021

MEMORANDUM FOR THE ASSISTANT ADMINISTRATOR

POC: Andrew Sawyers, OWM, sawyers.andrew@epa.gov

SUBJECT: NPDES Concentrated Animal Feeding Operation (CAFO) Program

I. REQUESTING OFFICE: OWM, Water Permits Division

II. TIMING: No deadlines.

III. PURPOSE: Provide an overview of the National Pollutant Discharge Elimination System (NPDES) CAFO program, including program implementation challenges and current petition.

IV. BACKGROUND AND HISTORY

- 1970s: CAFOs were identified as point sources in the Clean Water Act (CWA). EPA promulgated effluent guidelines (1974) and NPDES regulations (1976).
- 2003: EPA made substantial changes to both the NPDES permitting regulations and the effluent guidelines. EPA's 2003 CAFO rule was challenged by Waterkeeper Alliance and other parties, including industry groups, in the Second Circuit Court of Appeals¹. The court remanded significant parts of the 2003 rule, including which facilities required a permit, public participation in the terms of the nutrient management plans and the new source performance standards. The Courts upheld the Agency's interpretation of the Ag stormwater exemption.
- 2008: EPA issued revisions to address the Waterkeeper remand. The 2008 rule was challenged by National Pork Producers Council (NPCC) and other parties, including Natural Resources Defense Council (NRDC) in the Fifth Circuit Court of Appeals². The Fifth Circuit again issued a partial remand limiting which CAFOs can be required to have NPDES permit coverage. NRDC settled out of the

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

¹ Waterkeeper Alliance et al. v. EPA, 399 F.3d 486 (2d Cir. 2005).

² National Pork Producers Council v. EPA, 635 F.3d 738, 756 (5th Cir. 2011).

NPPC lawsuit in exchange for EPA proposing the CAFO reporting rule in 2011, which was subsequently withdrawn and never finalized.

- 2012: EPA issued a revised rule in 2012, that replaced the former “duty to apply” provision for CAFOs.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

- Between 2011 and 2019, the number of permitted CAFOs in the U.S. has decreased by roughly 12% while the number of CAFOs in the U.S. has increased by roughly 12.6%. There are approximately 21,000 CAFOs in the U.S. and approximately 6,700 (32%) of them have NPDES coverage.

Ex. 5 Deliberative Process (DP)

V. KEY ISSUES

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

EPA's Effort to Enhance Program Implementation to Improve Water Quality:

- The Animal Agriculture Discussion Group (AADG), established by OWM in 2013, provides a forum for industry to engage with federal partners and permitting authorities, to discuss implementation challenges and best practices.

[PAGE] of [NUMPAGES]

Briefing Memo - CAFOs
DRAFT/DELIBERATIVE

- NRCS and EPA developed nutrient management planning tools and a series of on-line animal agriculture education modules.
- EPA collaborated with the US Poultry & Egg Association to develop a set of compliance videos. Region 3 also collaborated with U.S. Poultry and Egg on a “*What to Expect When You’re Inspected*” video.
- Nutrient Recycling Challenge: Significant engagement of a wide variety of stakeholders to promote innovative technologies for utilizing manure.
- Provided contractor assistance to several states and tribes on discrete projects that aimed to address a particular problem or enhance a particular program.
- Continue to engage with poultry & egg sector on possibilities to simplify NMP template for non-CAFO AFOs.
- State Program Compendiums to highlight note-worthy state program features that might be transferable.
- ACWA-sponsored forums, biennial roundtables and special topic engagements with state NPDES programs.

VI. STAKEHOLDER INVOLVEMENT: See items under section V.

VII. NEXT STEPS/UPCOMING DEADLINES

Current Challenges:

- In 2017, Food & Water Watch (FWW), et al., petitioned EPA to make changes to the CAFO program.
 - The petition outlines **Ex. 5 Deliberative Process (DP)** of the CAFO program and suggests
Ex. 5 Deliberative Process (DP)
 - In 2017, Water Permits Division met several times with FWW and some of the co-petitioners to discuss some of their requested changes-asks.
 - EPA has not formally responded to the petition. **Ex. 5 Deliberative Process (DP)**
Ex. 5 Deliberative Process (DP)
- In 2015, Erika Brotzman, a law student at the University of Colorado, petitioned EPA to make changes to the CAFO program. EPA has not formally responded to the petition.
- In 2020, Food & Water Watch challenged EPA Region 10’s Idaho CAFO General Permit in the Ninth Circuit. Oral arguments are scheduled for May 6, 2021.

Briefing Memo - CAFOs
DRAFT/DELIBERATIVE

- EPA Region 6 is in the process of reissuing the New Mexico CAFO General Permit.
- Ohio Department of Agriculture is seeking NPDES authorization in order to assume the CAFO permitting program from Ohio EPA.

Opportunities:

Ex. 5 Deliberative Process (DP)

VIII. APPENDICES

See appended PowerPoint slides for additional information, data and figures.

Message

From: Ruf, Christine [Ruf.Christine@epa.gov]
Sent: 4/3/2017 2:17:30 PM
To: Molloy, Jennifer [molloy.jennifer@epa.gov]
CC: Lousberg, Macara [Lousberg.Macara@epa.gov]; Campbell, Ann [Campbell.Ann@epa.gov]
Subject: RE: response letter to Food & Water Watch petition on CAFO regs

Hi Jenny, I'll check with Diane/Wanda and get back to you. C.

From: Molloy, Jennifer
Sent: Monday, April 03, 2017 10:15 AM
To: Ruf, Christine <Ruf.Christine@epa.gov>
Subject: FW: response letter to Food & Water Watch petition on CAFO regs

Christine:

Ann's away message says to contact you. So, I'm forwarding this along in case you can find out the answer.

Thanks, Jenny

Jenny Molloy
U.S. EPA
Water Permits Division
202.564.1939
molloy.jennifer@epa.gov

From: Molloy, Jennifer
Sent: Monday, April 03, 2017 10:14 AM
To: Campbell, Ann <Campbell.Ann@epa.gov>
Cc: Abrams, Nancy <Abrams.Nancy@epa.gov>; Lousberg, Macara <Lousberg.Macara@epa.gov>
Subject: response letter to Food & Water Watch petition on CAFO regs

Ann or Macara:

Could you please confirm if the response letter (AX-17-000-5937), which was prepared for Mike's signature, has gone out?

There is an Animal Ag Discussion Group (AADG) meeting on Wednesday, and we know we'll get questions about the petition, so we want to have an up-to-date talking point on it.

Thanks, Jenny

Jenny Molloy
U.S. EPA
Water Permits Division
202.564.1939
molloy.jennifer@epa.gov

From: Campbell, Ann
Sent: Friday, March 24, 2017 11:07 AM
To: Molloy, Jennifer <molloy.jennifer@epa.gov>
Cc: Abrams, Nancy <Abrams.Nancy@epa.gov>
Subject: RE: contact for FWW petition on CAFOs response letter

Thanks Jenny. I just spoke with Deborah. Please identify her as the point person. Thank you.

From: Molloy, Jennifer
Sent: Friday, March 24, 2017 7:24 AM
To: Campbell, Ann <Campbell.Ann@epa.gov>
Subject: contact for FWW petition on CAFOs response letter

Ann:

I also left you a vm. Sorry for the redundancy, just not sure of the fastest way to get in touch with you.

You talked briefly with Nancy Abrams yesterday about a contact name to put in the attached letter. If you could let me know who that would be that would be greatly appreciated.

Thanks, Jenny

Jenny Molloy
U.S. EPA
Water Permits Division
202.564.1939
molloy.jennifer@epa.gov

Message

From: Shapiro, Mike [Shapiro.Mike@epa.gov]
Sent: 3/26/2017 12:55:19 PM
To: Sawyers, Andrew [Sawyers.Andrew@epa.gov]; Grevatt, Peter [Grevatt.Peter@epa.gov]; Best-Wong, Benita [Best-Wong.Benita@epa.gov]
CC: Campbell, Ann [Campbell.Ann@epa.gov]
Subject: Fwd: Follow Up after 3/20/2017 Meeting
Attachments: FINAL Kewaunee SDWA Petition to EPA 2014-10-22.pdf; ATT00001.htm; Citizens' CAFO CWA Petition-2.pdf; ATT00002.htm; Dennis2012_Ammonia.pdf; ATT00003.htm

Andrew and Peter,

Are you familiar with this issue?

Mike

Michael Shapiro
Deputy Assistant Administrator
US EPA, Office of Water

Begin forwarded message:

From: "Lynn Utesch" <lnotesch@epa.gov> Ex. 6 Personal Privacy (PP)
To: "Shapiro, Mike" <Shapiro.Mike@epa.gov>, "Best-Wong, Benita" <Best-Wong.Benita@epa.gov>
Cc: "Kaplan, Robert" <kaplan.robert@epa.gov>, "Korleski, Christopher" <korleski.christopher@epa.gov>, "Grubb, Christopher" <Grubb.Christopher@epa.gov>, "Burdett, Cheryl" <burdett.cheryl@epa.gov>, "Tarah Heinzen" <theinzen@fwwatch.org>
Subject: Follow Up after 3/20/2017 Meeting

Good afternoon Michael and Benita. I wanted to follow up with the both of you with documents on the SDWA petition filed in October 2014 concerning the water contamination in Kewaunee County, Wisconsin, located in Northeast Wisconsin. Currently 34% of our tested wells are contaminated with e-coli, high nitrates, or both--in an area that houses 16 industrial CAFO's--15 Dairy, and one Beef operation.

I have also attached a recent Citizen CAFO CWA petition filed to the EPA citing the EPA's duty under the law to hold Concentrated Animal Feeding Operations accountable for their water pollution which threatens public health and the Environment. CAFO Regulations need to be seriously overhauled under the Clean Water Act and its permitting program as current rules **do not** prevent pollution or protect our communities.

In Kewaunee County, our 3 major rivers: the Kewaunee, Ahnapee and East Twin Rivers **are all on the EPA's impaired waters listing.**

As you may recall, I also asked when the EPA will address the toxic emissions given off by CAFO's, their lagoons, fans off their complexes, and most notably, the practice of

spray irrigation of manure where we live--aerosolized manure particulates distributed through spray irrigation into the ambient air --which are easily ingested and breathed in, putting human health in great jeopardy for those exposed to this practice which volatilizes 50% more ammonia than any other form of manure dispersal. NASA Satellite images have captured the toxic ammonia/emission clouds. ***The EPA has not taken a position on the practice of Spray Irrigation of manure***, in spite of the devastation it has done nationally, in areas all over the nation, including North Carolina and the Chesapeake Bay.

<https://www.nasa.gov/content/goddard/research-clarifies-health-costs-of-air-pollution-from-agriculture/index.html>

Also, please find attached an excellent research paper entitled: **Fate of ammonia emissions at the local to regional scale as simulated by the Community Multiscale Air Quality model**

Robin L. Dennis ¹, Rohit Mathur ¹, Jonathan E. Pleim ¹, John T. Walker ²

Thank you for your time and attention to my concerns. I look forward to meeting with you and speaking again on these issues soon.

Sincerely,
Nancy Utesch
E5173 Fourth Road
Kewaunee, Wisconsin 54216
920-388-0868
Kewaunee CARES, Citizens Advocating Responsible Environmental Stewardship

Message

From: Grevatt, Peter [Grevatt.Peter@epa.gov]
Sent: 3/26/2017 2:10:20 PM
To: Shapiro, Mike [Shapiro.Mike@epa.gov]
CC: Sawyers, Andrew [Sawyers.Andrew@epa.gov]; Best-Wong, Benita [Best-Wong.Benita@epa.gov]; Campbell, Ann [Campbell.Ann@epa.gov]; Thompkins, Anita [Thompkins.Anita@epa.gov]; Mclain, Jennifer [Mclain.Jennifer@epa.gov]; Gonzalez, Yvonne V. [Gonzalez.Yvonne@epa.gov]
Subject: Re: Follow Up after 3/20/2017 Meeting

Thanks Mike. I spoke with Bob Kaplan on this about a year ago, and as I recall the Region was very much engaged on this at that time. I'm glad to work with Andrew and Chris Korleski on this.

Sent from my iPhone

> On Mar 26, 2017, at 8:55 AM, Shapiro, Mike <Shapiro.Mike@epa.gov> wrote:

>
> Andrew and Peter,
>
> Are you familiar with this issue?
>
> Mike

>
> Michael Shapiro
> Deputy Assistant Administrator
> US EPA, Office of Water
>
> Begin forwarded message:

>
> From: "Lynn Utesch" <lnotesch@epa.gov> **Ex. 6 Personal Privacy (PP)**
> To: "Shapiro, Mike" <Shapiro.Mike@epa.gov><mailto:Shapiro.Mike@epa.gov>, "Best-Wong, Benita" <Best-Wong.Benita@epa.gov><mailto:Best-Wong.Benita@epa.gov>
> Cc: "Kaplan, Robert" <kaplan.robert@epa.gov><mailto:kaplan.robert@epa.gov>, "Korleski, Christopher" <korleski.christopher@epa.gov><mailto:korleski.christopher@epa.gov>, "Grubb, Christopher" <Grubb.Christopher@epa.gov><mailto:Grubb.Christopher@epa.gov>, "Burdett, Cheryl" <burdett.cheryl@epa.gov><mailto:burdett.cheryl@epa.gov>, "Tarah Heinzen" <theinzen@fwwatch.org><mailto:theinzen@fwwatch.org>
> Subject: Follow Up after 3/20/2017 Meeting

>
>
>
>
> Good afternoon Michael and Benita. I wanted to follow up with the both of you with documents on the SDWA petition filed in October 2014 concerning the water contamination in Kewaunee County, Wisconsin, located in Northeast Wisconsin. Currently 34% of our tested wells are contaminated with e-coli, high nitrates, or both--in an area that houses 16 industrial CAFO's--15 Dairy, and one Beef operation.

>
> I have also attached a recent Citizen CAFO CWA petition filed to the EPA citing the EPA's duty under the law to hold Concentrated Animal Feeding Operations accountable for their water pollution which threatens public health and the Environment. CAFO Regulations need to be seriously overhauled under the Clean Water Act and its permitting program as current rules do not prevent pollution or protect our communities.

>
> In Kewaunee County, our 3 major rivers: the Kewaunee, Ahnapee and East Twin Rivers are all on the EPA's impaired waters listing.

>
> As you may recall, I also asked when the EPA will address the toxic emissions given off by CAFO's, their lagoons, fans off their complexes, and most notably, the practice of spray irrigation of manure where we live--aerosolized manure particulates distributed through spray irrigation into the ambient air --which are easily ingested and breathed in, putting human health in great jeopardy for those exposed to this practice which volatilizes 50% more ammonia than any other form of manure dispersal. NASA Satellite images have captured the toxic ammonia/emission clouds. The EPA has not taken a position on the practice of Spray Irrigation of manure, in spite of the devastation it has done nationally, in areas all over the nation, including North Carolina and the Chesapeake Bay.
> <https://www.nasa.gov/content/goddard/research-clarifies-health-costs-of-air-pollution-from-agriculture/index.html>

>
> Also, please find attached an excellent research paper entitled: Fate of ammonia emissions at the local to regional scale as simulated by the Community Multiscale Air Quality model
> Robin L. Dennis 1, Rohit Mathur 1, Jonathan E. Pleim 1, John T. Walker 2

>
> Thank you for your time and attention to my concerns. I look forward to meeting with you and speaking again on these issues soon.
>
> Sincerely,
> Nancy Utesch
> E5173 Fourth Road
> Kewaunee, Wisconsin 54216
> 920-388-0868
> Kewaunee CARES, Citizens Advocating Responsible Environmental Stewardship
>
>
> <FINAL Kewaunee SDWA Petition to EPA 2014-10-22.pdf>
> <Citizens' CAFO CWA Petition-2.pdf>
> <Dennis2012_Ammonia.pdf>

Message

From: Sawyers, Andrew [Sawyers.Andrew@epa.gov]
Sent: 3/26/2017 5:21:30 PM
To: Shapiro, Mike [Shapiro.Mike@epa.gov]
CC: Grevatt, Peter [Grevatt.Peter@epa.gov]; Best-Wong, Benita [Best-Wong.Benita@epa.gov]; Campbell, Ann [Campbell.Ann@epa.gov]
Subject: Re: Follow Up after 3/20/2017 Meeting

Mike, I am not aware, however, I will check with our team and coordinate with Peter.
Thanks

> On Mar 26, 2017, at 8:55 AM, Shapiro, Mike <Shapiro.Mike@epa.gov> wrote:

>
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> Are you familiar with this issue?
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> Mike

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> To: "Shapiro, Mike" <Shapiro.Mike@epa.gov> <mailto:Shapiro.Mike@epa.gov>, "Best-Wong, Benita" <Best-Wong.Benita@epa.gov> <mailto:Best-Wong.Benita@epa.gov>
> CC: "Kaplan, Robert" <kaplan.robert@epa.gov> <mailto:kaplan.robert@epa.gov>, "Korleski, Christopher" <korleski.christopher@epa.gov> <mailto:korleski.christopher@epa.gov>, "Grubb, Christopher" <Grubb.Christopher@epa.gov> <mailto:Grubb.Christopher@epa.gov>, "Burdett, Cheryl" <burdett.cheryl@epa.gov> <mailto:burdett.cheryl@epa.gov>, "Tarah Heinzen" <theinzen@fwwatch.org> <mailto:theinzen@fwwatch.org>
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> Kewaunee, Wisconsin 54216
> 920-388-0868
> Kewaunee CARES, Citizens Advocating Responsible Environmental Stewardship
>
>
> <FINAL Kewaunee SDWA Petition to EPA 2014-10-22.pdf>
> <Citizens' CAFO CWA Petition-2.pdf>
> <Dennis2012_Ammonia.pdf>

Message

From: Molloy, Jennifer [molloy.jennifer@epa.gov]
Sent: 3/24/2017 11:23:49 AM
To: Campbell, Ann [Campbell.Ann@epa.gov]
Subject: contact for FWW petition on CAFOs response letter
Attachments: AX-17-000-5937 F&WW.docx

Ann:

I also left you a vm. Sorry for the redundancy, just not sure of the fastest way to get in touch with you.

You talked briefly with Nancy Abrams yesterday about a contact name to put in the attached letter. If you could let me know who that would be that would be greatly appreciated.

Thanks, Jenny

Jenny Molloy
U.S. EPA
Water Permits Division
202.564.1939
molloy.jennifer@epa.gov

Message

From: Fuld, John [Fuld.John@epa.gov]
Sent: 3/10/2017 8:43:07 PM
To: Loop, Travis [Loop.Travis@epa.gov]; Dennis, Allison [Dennis.Allison@epa.gov]; Thomas, Latosha [Thomas.Latosha@epa.gov]; Duke, Nia [Duke.Nia@epa.gov]; Shapiro, Mike [Shapiro.Mike@epa.gov]; Best-Wong, Benita [Best-Wong.Benita@epa.gov]; Campbell, Ann [Campbell.Ann@epa.gov]; Wadlington, Christina [Wadlington.Christina@epa.gov]; Lalley, Cara [Lalley.Cara@epa.gov]; Schollhamer, Mary [Schollhamer.Mary@epa.gov]; Bravo, Antonio [Bravo.Antonio@epa.gov]; Jones, Enesta [Jones.Enesta@epa.gov]; Lynn, Tricia [lynn.tricia@epa.gov]
Subject: OW - DAILY WRAP



March 10, 2017
Media Inquiries

Inquiries:

STATUS: OPEN

OUTLET: Choate Rosemary Hall Documentary Film on Drinking Water

REPORTER: Charles Yockey - student

TOPIC: RE: Drinking Water

OPA CONTACT: Enesta Jones

PROGRAM CONTACT: Christina Wadlington

DEADLINE: Thursday, March 16 – 10 AM

PERTINENT INFORMATION:

My name is Charles Yockey; I am a student at Choate Rosemary Hall and am currently leading outreach and communications for a documentary titled “The Clear Complication,” which seeks to explore underlying factors that plague the cleanliness of the country’s water supply and elucidate the stark environmental repercussions we will inevitably have to face if something is not done to address this pressing issue. Our film deals with, among other things, the legislation, regulation, proposed solutions, processes surrounding, and overall quality of the domestic water supply. In particular, we seek to expose discrepancies in the quality of our drinking water and explore what federal agencies are doing to remedy these impurities.

From March 15 to March 18 our production crew will be in Washington D.C. to conduct a series of interviews with representatives from think tanks, NGOs, and governmental agencies who are able to share nuanced insight into the legislation surrounding water at the federal level. We would like to meet with you or a staff member from your agency with some knowledge of water pollution, quality or security to interview for the film and share some intuition with us. If a time slot of thirty minutes to an hour anytime from March 15 - March 18 works for you, we would love the opportunity to sit down and ask you a few questions. If unable, we are extraordinarily grateful for the work that your agency have done in years past to save our planet and conserve the environment. Please drop us a line either way and thank you for your time. If you are unable to help us perhaps you know of someone who is?

We look forward to hearing from you.

QUESTION:

1. How clean is our water supply?
2. How is drinking water purified typically?
3. How does impure water typically become initially contaminated?
4. In these cases what is the most common pollutant?
5. How are Maximum Contaminant Levels (MCL) decided?
6. Who has a voice in determining these MCLs?
7. How often are MCLs for new contaminants added?
8. What occurs if a source of water exceeds the MCL of a certain contaminant?
9. How are these MCLs ensured in all sources of water?
10. How often is domestic water tested to ensure that MCLs are satisfied?
11. What are the implications on health in regard to the water supply?

STATUS: OPEN

OUTLET: Politico

REPORTER: Catherine Boudreau

TOPIC: RE: Pollution discharges into navigable waters

OPA CONTACT: Tricia Lynn

PROGRAM CONTACT: Mary Schollhamer & Kit Faber

DEADLINE: 3-13 2 pm

OW PROGRAM OFFICE: OWM OPA CHECKING WITH ORD

PERTINENT INFORMATION:

Reporter covers food and agriculture policy at Politico, and is hoping we can respond to some of the issues raised by a petition groups like Food and Water Watch, Des Moines Water Works and the Johns Hopkins

Center for a Livable Future filed today. It can be found here:

https://www.foodandwaterwatch.org/sites/default/files/citizens_cafos_cwa_petition.pdf

QUESTION:

She's looking for comments on the following:

- 1) The petition states that the EPA isn't fulfilling its obligation under the Clean Water Act to "restore and maintain the chemical, physical and biological integrity of the Nation's waters" by eliminating pollution discharges into navigable waters when it comes to concentrating animal feeding operations, or CAFOs. The groups are requesting that the agency overhaul its CAFO permitting system so it requires stricter standards and enforcement of those standards.
- 2) The petition states that current regulations: "fail to require water monitoring, do not prohibit practices known to harm water quality, generally ignore numerous pollutants of concern, place critical decisions about waste management in the hands of state agencies, and exempt most chronic CAFO discharges from permit requirements through an unreasonably broad reading of the agricultural stormwater exemption."
 - a. Can you respond to this statement?
 - b. Also, can you provide numbers on how many CAFOs there are in the U.S., how many have obtained permits under CWA, and how many have been exempted under this stormwater exemption?
- 3) The petitioners are requesting that EPA revise the Effluent Limitation Guidelines so they establish pollution control levels for additional CAFO pollutants of concern – such as nitrogen, phosphorus, antimicrobials and hormones.

John W. Fuld, Ph.D.

Media Relations Manager-Water
Environmental Protection Agency
1200 Constitution Ave
Washington DC 20460
Office: 202-564-8847

Ex. 6 Personal Privacy (PP)

Fuld.john@epa.gov

Message

From: Sylvester, Francis [Sylvester.Francis@epa.gov]
Sent: 5/18/2017 2:41:36 PM
To: OW-OWM-Everyone [OWOWMEveryone@epa.gov]
Subject: Weekly Highlights 5-17-17

Good morning,
Below are the highlights for this week. As always, you can find the full version of the weekly updates [here](#).

Thanks!
Frank

Immediate Office

- On Monday 15, Andrew participated in a follow up briefing on water infrastructure finance programs for Byron Brown and Sarah Greenwalt along with Mike Shapiro and Peter Grevatt.

Water Permits Division

Industrial Branch

Municipal Branch

- EPA will be speaking to the Water Environment Federation (WEF) Stormwater Committee on Thursday, May 25th regarding integrated planning and the new long-term stormwater planning technical assistance work that is currently underway. (Nagle, Biddle)

Ex. 5 Deliberative Process (DP)

Rural Branch

- On Wednesday, May 17, Deborah Nagle and members of the Rural Branch met with representatives of Food & Water Watch and other citizen groups, who filed the petition to revise the NPDES CAFO regulations, to hear their concerns.
- Held monthly meeting between OW and USDA Natural Resources Conservation Service. At the meeting, OW had the opportunity to meet NRCS's new acting Deputy Chief for Science and Technology, Roylene Rides at the Door. Roylene is on detail from the State of Washington where she serves as the State Conservationist (Rural Branch, OWOW, NRCS).
- Toured 3 beef cattle operations in California and shot footage for the National and California Beef Cattlemen's module for the Animal Agriculture Discussion Group's Ag Education project (Sawyers, Nagle, Subramanian, Kelly Shenk (R3), Kerry Drake (R9), Becky Mitschele (R9)).

Ex. 5 Deliberative Process (DP)

Water Infrastructure Division

WIRFC

- **Stormwater Finance Webinar:** The Water Finance Center is co-hosting a webinar series with the Water Environment Federation (WEF) this spring/summer! The **second webinar on May 23** will highlight Washington DC's Stormwater Retention Credit Program (speaker: Brian Van Wye, DC Department of Energy and Environment). Registration available at: <https://www.epa.gov/waterfinancecenter/leading-edge-stormwater-financing-webinars>. As of 5/17/17 there are 612 participants registered. Webinar will be recorded and posted on EPA's YouTube site. (Kristyn Abhold & Holly Galavotti)
- **Water Finance Clearinghouse:** The Water Finance Center is working with states and federal agencies to provide feedback on the beta version of the Water Finance Clearinghouse. Federal: A meeting with USDA was held this week to discuss adding their content to the Clearinghouse. We are also having discussions with FEMA and NOAA as well. States: A series of 6 webinars were held over the past few weeks that reached over 300 participants. The Water Finance Center also presented the Clearinghouse on May 17 to the Maine Water Utilities Association's Utility Finance Officers. (Kristyn Abhold)
- **Finance Forums:** The Water Finance Center is working with the regional offices and the regional Environmental Finance Centers (EFCs) in Region 4 and Region 7 to plan Water Finance Forums. The Region 4 forum will be held in Florence, AL on July 26 and the Region 7 forum will be held in St. Joseph, MO on September 12. (Vanessa Bowie, Pam Scott, John Covington)
- **CWSRF Guarantee:** The Water Finance Center presented at the Better Building Summit in Washington, DC on May 17 in a session titled "You Can Do That? Pioneers in using State Clean Water Revolving Funds for Energy Efficiency." The presentation focused on how PA and NY have used CWSRF funds to support clean energy programs. Paul Marchetti, PA and Jim Levine, NY also presented. (Jim Gebhardt)

CWSRF Branch

Sustainable Communities and Infrastructure Branch

- Bob Bastian will provide support to the OSTP inter-agency Subcommittee on Water Availability and Quality (SWAQ) - that Mike Shapiro co-chairs. The focus is technology stemming from the "Water Infrastructure Improvements for the Nation Act" (WIIN) legislation, specifically strategic approaches for desalination technology readiness.

- Phil Zahreddine responded to the questions from R8 regarding the use of the Reverse Osmosis process at wastewater treatment facilities – providing technical, performance, and cost feedback to be used in R8’s review of economic analysis provided by Montana DEQ (May 8).
- The Decentralized Program hosted a webinar May 16th - “How State and Local Governments Promote and Proclaim SepticSmart Week” (quarterly EPA Decentralized Wastewater MOU Partnership webinar series). There were 130 attendees.

WaterSense Branch

- 5/11 – WaterSense attended a virtual meeting of the California Energy Commission (CEC) that focused on identifying future products for standard development in California. They are considering a number of products for which WaterSense is also developing specifications. The CEC has indicated to WaterSense that it wants to wait for our specifications and then adopt them as requirements in the state. This is good for manufacturers because it will not force them to develop products that meet assorted standards.
- 5/15-17 – Jonah Schein attended the Better Buildings Summit in DC. He spoke in a session on Wednesday about how buildings can track and analyze their water data as a means to improve water management. He also had side meetings with different businesses and associations to talk about WaterSense.
- 5/16/17 – Julius Duncan and Olga Cano toured the Grass Roots exhibit at the National Arboretum. WaterSense may work with the exhibit director to incorporate messaging about WaterSense and labeled irrigation controllers into the exhibit. We may also use information from the exhibit to build out sections of our website dedicated to turfgrass selection and landscape maintenance.
- 5/23 – WaterSense will hold its bimonthly marketing webinar for partners. The focus for this month is on outdoor water use, to prepare for summer watering. Guest speakers from Tacoma (WA) Water and the City of Plano (TX) will talk about their outdoor programming.
- 5/25 – Veronica Blette will attend a call of the AWWA committee which is working on revisions to the AWWA manual for drought preparedness and response. She is a member of the committee working to update the manual.

Water Infrastructure Finance and Innovation Act (WIFIA) Program

PIRMS

OGC/WLO

- I. NEW CASES/NOI’S/ FOIA’S/OTHER SIGNIFICANT DEVELOPMENTS
- II. NEW DECISIONS
- III. UPCOMING AA AND OTHER SIGNIFICANT MEETINGS
- IV. UPCOMING SIGNIFICANT DEADLINES AND BRIEFS (** denotes press)

Frank Sylvester
U.S. Environmental Protection Agency
Office of Wastewater Management
Water Permits Division
Phone Number: (202) 564-1279
sylvester.francis@epa.gov

Message

From: Zobrist, Marcus [Zobrist.Marcus@epa.gov]
Sent: 3/11/2021 10:33:03 PM
To: Molloy, Jennifer [molloy.jennifer@epa.gov]; Utting, George [Utting.George@epa.gov]; Chan, Jennifer [Chan.Jennifer@epa.gov]; Durant, Chelsea [durant.chelsea@epa.gov]; Bathersfield, Nizanna [Bathersfield.Nizanna@epa.gov]
Subject: RE: ACTION by 3pm FRIDAY 3/12: seeking OWM's slides for Draft Ag briefing for Acting AA using the new slide deck template

Ex. 5 Deliberative Process (DP)

From: Molloy, Jennifer <molloy.jennifer@epa.gov>
Sent: Thursday, March 11, 2021 3:36 PM
To: Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Utting, George <Utting.George@epa.gov>; Chan, Jennifer <Chan.Jennifer@epa.gov>; Durant, Chelsea <durant.chelsea@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>
Cc: Kloss, Christopher <Kloss.Christopher@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>
Subject: RE: ACTION by 3pm FRIDAY 3/12: seeking OWM's slides for Draft Ag briefing for Acting AA using the new slide deck template

Ex. 5 Deliberative Process (DP)

Jenny Molloy
U.S. EPA
Water Permits Division

Ex. 6 Personal Privacy (PP)

molloy.jennifer@epa.gov

From: Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Sent: Thursday, March 11, 2021 1:41 PM
To: Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Chan, Jennifer <Chan.Jennifer@epa.gov>; Durant, Chelsea <durant.chelsea@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>
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Ex. 5 Deliberative Process (DP)

For the stakeholder engagement – seem AADG and the pending petition on CAFOs are forms of stakeholder engagement.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Let me know if this works.

From: Wall, Tom <Wall.Tom@epa.gov>

Sent: Thursday, March 11, 2021 1:12 PM

To: Zobrist, Marcus <Zobrist.Marcus@epa.gov>

Cc: Kloss, Christopher <Kloss.Christopher@epa.gov>; Hall, Lynda <Hall.Lynda@epa.gov>

Subject: ACTION by 3pm FRIDAY 3/12: seeking OWM's slides for Draft Ag briefing for Acting AA using the new slide deck template

Good talking just now, Marcus.

Ex. 5 Deliberative Process (DP)

From: Wall, Tom

Sent: Wednesday, March 10, 2021 6:28 PM

To: Goodin, John <Goodin.John@epa.gov>; Sandra Connors <Connors.Sandra@epa.gov> <Connors.Sandra@epa.gov>

Subject: FY consideration: Draft Ag briefing and New Briefing and Memo Templates

Ex. 5 Deliberative Process (DP)

Message

From: Utting, George [Utting.George@epa.gov]
Sent: 3/11/2021 8:33:04 PM
To: Zobrist, Marcus [Zobrist.Marcus@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Chan, Jennifer [Chan.Jennifer@epa.gov]; Durant, Chelsea [durant.chelsea@epa.gov]; Bathersfield, Nizanna [Bathersfield.Nizanna@epa.gov]
CC: Kloss, Christopher [Kloss.Christopher@epa.gov]; Lopez-Carbo, Maria [Lopez-Carbo.Maria@epa.gov]
Subject: RE: ACTION by 3pm FRIDAY 3/12: seeking OWM's slides for Draft Ag briefing for Acting AA using the new slide deck template

The irony is that – for years – OWOW had virtually no contact with USDA on ag issues (they did have a line of communication with the Forest Service). USDA worked through OWM, and we worked up the agendas for the front office meetings between AAs and NRCS (and some of the other services). But this PP presentation makes it appear that OWOW is the portal for USDA communications. That's in part why the AADG ended up in OWM, as well.

From: Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Sent: Thursday, March 11, 2021 1:41 PM
To: Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Chan, Jennifer <Chan.Jennifer@epa.gov>; Durant, Chelsea <durant.chelsea@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>
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Subject: FW: ACTION by 3pm FRIDAY 3/12: seeking OWM's slides for Draft Ag briefing for Acting AA using the new slide deck template

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Cc: Kloss, Christopher <Kloss.Christopher@epa.gov>; Hall, Lynda <Hall.Lynda@epa.gov>
Subject: ACTION by 3pm FRIDAY 3/12: seeking OWM's slides for Draft Ag briefing for Acting AA using the new slide deck template

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Ex. 5 Deliberative Process (DP)

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Please let me know if you have any questions and THANK YOU!

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Sent: Wednesday, March 10, 2021 6:28 PM

To: Goodin, John <Goodin.John@epa.gov>; Sandra Connors (<Connors.Sandra@epa.gov>) <Connors.Sandra@epa.gov>

Subject: FY consideration: Draft Ag briefing and New Briefing and Memo Templates

Ex. 5 Deliberative Process (DP)

Message

From: Zobrist, Marcus [Zobrist.Marcus@epa.gov]
Sent: 3/11/2021 7:18:38 PM
To: Molloy, Jennifer [molloy.jennifer@epa.gov]; Utting, George [Utting.George@epa.gov]; Chan, Jennifer [Chan.Jennifer@epa.gov]; Durant, Chelsea [durant.chelsea@epa.gov]; Bathersfield, Nizanna [Bathersfield.Nizanna@epa.gov]
Subject: RE: ACTION by 3pm FRIDAY 3/12: seeking OWM's slides for Draft Ag briefing for Acting AA using the new slide deck template

See response below.

From: Molloy, Jennifer <molloy.jennifer@epa.gov>
Sent: Thursday, March 11, 2021 1:56 PM
To: Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Utting, George <Utting.George@epa.gov>; Chan, Jennifer <Chan.Jennifer@epa.gov>; Durant, Chelsea <durant.chelsea@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>
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Jenny Molloy
U.S. EPA
Water Permits Division

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molloy.jennifer@epa.gov

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To: Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Chan, Jennifer <Chan.Jennifer@epa.gov>; Durant, Chelsea <durant.chelsea@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>
Cc: Kloss, Christopher <Kloss.Christopher@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>
Subject: FW: ACTION by 3pm FRIDAY 3/12: seeking OWM's slides for Draft Ag briefing for Acting AA using the new slide deck template

Hi Ag team,

Ex. 5 Deliberative Process (DP)

For the stakeholder engagement – seem AADG and the pending petition on CAFOs are forms of stakeholder engagement.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Let me know if this works.

From: Wall, Tom <Wall.Tom@epa.gov>

Sent: Thursday, March 11, 2021 1:12 PM

To: Zobrist, Marcus <Zobrist.Marcus@epa.gov>

Cc: Kloss, Christopher <Kloss.Christopher@epa.gov>; Hall, Lynda <Hall.Lynda@epa.gov>

Subject: ACTION by 3pm FRIDAY 3/12: seeking OWM's slides for Draft Ag briefing for Acting AA using the new slide deck template

Good talking just now, Marcus.

Ex. 5 Deliberative Process (DP)

Please let me know if you have any questions and THANK YOU!

From: Wall, Tom

Sent: Wednesday, March 10, 2021 6:28 PM

To: Goodin, John <Goodin.John@epa.gov>; Sandra Connors (Connors.Sandra@epa.gov) <Connors.Sandra@epa.gov>

Subject: FY consideration: Draft Ag briefing and New Briefing and Memo Templates

Ex. 5 Deliberative Process (DP)

Agricultural Activities Regulated under the NPDES Program

- **Concentrated Animal Feeding Operations (CAFOs)**

approximately 6,700 out of 21,000 CAFOs in the U.S. have NPDES coverage

- Petition from Food and Water Watch, et al (separate briefing)
- Ohio Department of Agriculture authorization for the NPDES CAFO program
- Development of nutrient management training for state and regional NPDES program

- **Concentrated Aquatic Animal Production (CAAPs)**

approximately 700 CAAPs in the U.S. have NPDES coverage

- NSTC Subcommittee on Aquaculture, OSTP approval of *Regulatory Efficiency and Science* reports.

Ex. 5 Deliberative Process (DP)

- **Pesticide Application (includes pesticide application in open water, e.g., cranberries, rice, blueberries)**

approximately XX pesticide applicators in the U.S. have NPDES coverage

- Reissuing the Pesticide General Permit (PGP) this year (separate briefing)

Appendix A for Petitions to Revise CAFO Regulations

I. Chart detailing the Issues raised in the 2017 Food & Water Watch Petition:

Major issues raised in petition	Additional points raised in petition	Lead Office	Ex. 5 Deliberative Process (DP)	
I. EPA'S CAFO REGULATIONS MUST ENSURE THAT ALL DISCHARGING CAFOS OBTAIN NPDES PERMITS				
1. EPA should establish an evidentiary presumption that certain CAFOs discharge and are either subject to NPDES permitting or must rebut the presumption by demonstrating they do not discharge	<ul style="list-style-type: none"> - EPA Has Clear Authority to Establish a Presumption that Certain CAFOs Discharge - EPA Has Sufficient Evidence to Support a Presumption that CAFOs with Certain Characteristics Discharge -- Land application (dry weather discharges) -- Production area 	OWM OGC OECA	Ex. 5 Deliberative Process (DP)	

Major issues raised in petition	Additional points raised in petition	Lead Office	Ex. 5 Deliberative Process (DP)
			Ex. 5 Deliberative Process (DP)
2. EPA should revise its interpretation of the agricultural stormwater exemption such that no discharges resulting from CAFO activities are exempt as non-point source pollution	<ul style="list-style-type: none"> - EPA's Current Interpretation of the Agricultural Stormwater Exemption is inadequate - EPA Has Clear Authority to Revise its Interpretation of the Agricultural Stormwater Exemption - The Language and History of the Statute Indicate Congress' Intent to Regulate All CAFO Pollution 	OGC OWM	
3. EPA must ensure that integrators who meet the CWA definition of owner or operator are co-permitted with contract producers, as the statute has always required	EPA has already established that many of these corporate entities are CWA operators, but it must now clarify by regulation which entities meet the definition of an operator and are required to obtain NPDES permits	OWM OECA	
4. EPA should revise certain definitions in the CAFO regulations			

Major issues raised in petition	Additional points raised in petition	Lead Office	Ex. 5 Deliberative Process (DP)	
	A. "Production Area" - revise to "ensure that all areas associated with the CAFO facility are subject to the CAFO ELGs" -- explaining that each CAFO has a single, contiguous production area that encompasses all listed aspects of the operation and all areas in between, and that the agricultural stormwater exemption may never be applied to discharges from the CAFO production area.	OWM OGC OST	Ex. 5 Deliberative Process (DP)	
	B. Revise or Eliminate the "Medium CAFO" Category -- three-tiered system exempts a large number of operations approaching the Large CAFO size threshold and their land application practices from regulation	OWM OGC OECA OST		

Major issues raised in petition	Additional points raised in petition	Lead Office	Ex. 5 Deliberative Process (DP)
	C. EPA Should Impose Meaningful Limits on States' Discretion in Designating AFOs as CAFOs	OWM OGC OECA	
II. EPA MUST STRENGTHEN CAFO NPDES PERMITS TO ADEQUATELY PROTECT WATER QUALITY			
1. EPA should revise the requirements applicable to all CAFOs to ensure compliance with the CWA and permit terms	A. EPA must require water quality monitoring in CAFO NPDES permits	OWM OGC OST OECA	Ex. 5 Deliberative Process (DP)

Major issues raised in petition	Additional points raised in petition	Lead Office	Ex. 5 Deliberative Process (DP)
			Ex. 5 Deliberative Process (DP)
	B. EPA Must Strengthen Annual Reporting Requirements (and	OWM OGC	
2. EPA should revise the CAFO ELGs to address additional CAFO pollutants of concern, prohibit practices known to harm water quality, and otherwise strengthen existing requirements			
	A. The CAFO ELGs Should Apply to All CAFOs	OST OGC	

Major issues raised in petition	Additional points raised in petition	Lead Office	Ex. 5 Deliberative Process (DP)
	B. EPA Must Establish Application Disclosure requirements, BAT and NSPS Limits, and Monitoring Requirements for Additional CAFO Pollutants of Concern – extend application requirements, ELGs, and permit limits to include other pollutants of concern	OST OWM OGC	
	C. The CAFO ELGs' NMP Requirements Must Prioritize Protecting Water Quality -- EPA must establish stronger federal requirements to minimize harmful runoff, rather than relying almost solely on NMPs and on state-promulgated technical standards.	OST OGC OWM	

Major issues raised in petition	Additional points raised in petition	Lead Office	
	D. Technical Standards Must Prohibit Practices Known to Harm Water Quality – (1) Manure Storage in Unlined and Inadequately Lined Lagoons and Impoundments (2) Ventilation of Pollutants near Waters or Conduits to Waters of the U.S. -- air deposition (3) Application on Frozen, Saturated, or Snow-Covered Ground -- EPA guidance inadequate	OST OGC OWM OECA	Ex. 5 Deliberative Process (DP)

Major issues raised in petition	Additional points raised in petition	Lead Office	Ex. 5 Deliberative Process (DP)
	<div>(4) Spray Irrigation of Manure</div> <hr/> <div>(5) Manure Application on Steep Slopes</div> <hr/> <div>(6) Manure Storage in Exposed Stockpiles</div>		
	E. State Permitting Programs Cannot Effectively Fill the Gaps Left by the Absence of Strong National Standards	OST OGC OWM OECA	

Major issues raised in petition	Additional points raised in petition	Lead Office	Ex. 5 Deliberative Process (DP)
	F. EPA's Assumptions Regarding the Frequency of Storm Events Are No Longer Accurate	OST OGC OECA	

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Talking Points for Andrew about CAFO Petitions

- We have been asked to provide responses to two rulemaking petitions on the CAFO regulations.
- The two petitions are:
 - (1) Petition to Revise the Clean Water Act Regulations for Concentrated Animal Feeding Operations, filed by Food & Water Watch and a group of other environmental petitioners, in 2017 (“FWW petition”); and

Ex. 5 Deliberative Process (DP)

- The FWW petition is very detailed and involves an array of issues that would need to be addressed by multiple EPA offices, including OWM, OST, OGC, and OECA (see Attachment for list of issues).

Ex. 5 Deliberative Process (DP)

Message

From: Kloss, Christopher [Kloss.Christopher@epa.gov]
Sent: 11/23/2020 8:27:33 PM
To: Chan, Jennifer [Chan.Jennifer@epa.gov]
CC: Utting, George [Utting.George@epa.gov]; Lopez-Carbo, Maria [Lopez-Carbo.Maria@epa.gov]; Zobrist, Marcus [Zobrist.Marcus@epa.gov]
Subject: RE: OWM Bi-Weekly

Thanks Jennifer. I'm still reviewing #1 and will send that to Andrew soon. Same for #2. I think we are okay without talkers for now.

From: Chan, Jennifer <Chan.Jennifer@epa.gov>
Sent: Monday, November 23, 2020 1:49 PM
To: Kloss, Christopher <Kloss.Christopher@epa.gov>
Cc: Utting, George <Utting.George@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Subject: RE: OWM Bi-Weekly

Chris,

1. okay to move the CAFO petition TPs to OWM? See attachment.
2. Marcus said this morning that the 316b Framework in your inbox. Sent to you on Friday. TPs needed?
3. R10 permits – there is a meeting today at 5pm. Marcus will provide updates.

Jennifer Chan
U.S. Environmental Protection Agency HQ
Industrial Branch | Water Permits Division | Office of Wastewater Management
Phone: (202) 564-3067 | **Email:** chan.jennifer@epa.gov

From: Chan, Jennifer
Sent: Monday, November 23, 2020 1:09 PM
To: Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Cc: Utting, George <Utting.George@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Nguyen, Amelia <nguyen.amelia@epa.gov>; Kloss, Christopher <Kloss.Christopher@epa.gov>
Subject: FW: OWM Bi-Weekly

Marcus,

I understand you are drafting TPs for the 3 topics below. Please add to the document Amelia shared.

- CAFO rulemaking petitions
- 316b framework
- R10 permits (WLA, PN, 401)

Jennifer Chan
U.S. Environmental Protection Agency HQ
Industrial Branch | Water Permits Division | Office of Wastewater Management
Phone: (202) 564-3067 | **Email:** chan.jennifer@epa.gov

From: Nguyen, Amelia <nguyen.amelia@epa.gov>
Sent: Monday, November 23, 2020 12:55 PM
To: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Chan, Jennifer <Chan.Jennifer@epa.gov>
Cc: Kloss, Christopher <Kloss.Christopher@epa.gov>; Sylvester, Francis <Sylvester.Francis@epa.gov>
Subject: FW: OWM Bi-Weekly

Hey Maria and Jennifer,

Anna requested that we provide an update on the following 3 items listed below during the OW biweekly meeting tomorrow. If you have a few min, could you draft a couple TPs in the attached editable file please? I added a comment bubble where I think the TPs should go. Thank you in advance for your help!

- CAFO rulemaking petitions
- 316b framework
- R10 permits (WLA, PN, 401)

Sincerely,
Amelia

Amelia Nguyen, Ph.D.
Acting Special Assistant
Office of Wastewater Management
Office: 202-564-4268
nguyen.amelia@epa.gov

From: Sawyers, Andrew <Sawyers.Andrew@epa.gov>

Sent: Saturday, November 21, 2020 10:29 AM

To: Kloss, Christopher <Kloss.Christopher@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Miller, Wynne <Miller.Wynne@epa.gov>; Sylvester, Francis <Sylvester.Francis@epa.gov>; Nguyen, Amelia <nguyen.amelia@epa.gov>

Subject: Fwd: OWM Bi-Weekly

Hello Chris and team, please see attached. Chris, I also plan to have you invited to the bi-weekly.

Sent from my iPhone

Begin forwarded message:

From: "Wildeman, Anna" <wildeman.anna@epa.gov>

Date: November 21, 2020 at 9:50:48 AM EST

To: "Sawyers, Andrew" <Sawyers.Andrew@epa.gov>

Cc: "Aguirre, Janita" <Aguirre.Janita@epa.gov>, "Laija, Emerald" <Laija.Emerald@epa.gov>

Subject: OWM Bi-Weekly

Andrew, please be prepared to provide an update on the following topics during the next OWM bi-weekly

- CAFO rulemaking petitions
- 316b framework
- R10 permits (WLA, PN, 401)

Thanks

Anna Wildeman
Principal Deputy Assistant Administrator
Office of Water
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
202-564-5700

Wildeman,Anna@epa.gov

Message

From: Lopez-Carbo, Maria [Lopez-Carbo.Maria@epa.gov]
Sent: 11/23/2020 12:54:58 PM
To: Chan, Jennifer [Chan.Jennifer@epa.gov]; Kloss, Christopher [Kloss.Christopher@epa.gov]
Subject: FW: CAFO petitions: Talking Points for Andrew, and list of all the issues
Attachments: Appendix A for Petitions to Revise CAFO Regulations draft2.docx; Talking Points for Andrew about CAFO Petitions mz.docx

Apologies! I missed this email on Friday. These are the tps for the CAFO petitions.

From: Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Sent: Friday, November 20, 2020 4:53 PM
To: Kloss, Christopher <Kloss.Christopher@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>
Cc: Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>
Subject: CAFO petitions: Talking Points for Andrew, and list of all the issues

Chris, Maria,

Regarding the two petitions to revise the CAFO regulations that we have been asked by Anna Wildeman to review and potentially respond to in short order. In order to better understand the scope of the petitions and the commitment of resources that would be necessary to respond to them, I am sharing two documents. One is a set of talking points for Andrew, for potential use at the next bi-weekly with OW. The other is an appendix that charts out the issues raised in the petitions.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Marcus Zobrist |
Chief, Industrial Branch
U.S. Environmental Protection Agency
Office of Wastewater Management | Water Permits Division
Office: (202) 564-8311 | **Ex. 6 Personal Privacy (PP)**
Zobrist.Marcus@epa.gov

This e-mail is intended solely for the use of the individual or entity to whom it is addressed and its content shall be regarded as confidential unless explicitly stated otherwise. If you have received this e-mail by mistake, please notify the sender immediately by e-mail and delete this e-mail from your system.

Message

From: Sawyers, Andrew [Sawyers.Andrew@epa.gov]
Sent: 12/22/2020 7:41:40 PM
To: Kloss, Christopher [Kloss.Christopher@epa.gov]; Miller, Wynne [Miller.Wynne@epa.gov]
CC: Lopez-Carbo, Maria [Lopez-Carbo.Maria@epa.gov]; Chan, Jennifer [Chan.Jennifer@epa.gov]; Sylvester, Francis [Sylvester.Francis@epa.gov]; Nguyen, Amelia [nguyen.amelia@epa.gov]
Subject: RE: CAFO Petitions Summary

Thanks Chris – this works.

From: Kloss, Christopher <Kloss.Christopher@epa.gov>
Sent: Tuesday, December 22, 2020 12:13 PM
To: Sawyers, Andrew <Sawyers.Andrew@epa.gov>; Miller, Wynne <Miller.Wynne@epa.gov>
Cc: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Chan, Jennifer <Chan.Jennifer@epa.gov>; Sylvester, Francis <Sylvester.Francis@epa.gov>; Nguyen, Amelia <nguyen.amelia@epa.gov>
Subject: CAFO Petitions Summary

Andrew,

Attached please find the summary of the CAFO petitions enumerating each of the issues raised and providing a quick assessment of how a response would address each point. Below is an email that could be used to send this to Anna.
Thanks.

Anna,

Per your request, the attached the table in Appendix A is intended to be a reference guide to the issues presented in the Food & Water Watch petition, which is one of two petitions seeking revisions to the NPDES regulations and ELGs that address discharges from CAFOs (the petition filed in 2017 by F&WW and a coalition of other environmental petitioners,

Ex. 5 Deliberative Process (DP)

Chris Kloss
Water Permits Division
US EPA Office of Water
202.564.1438 (o)

Ex. 6 Personal Privacy (PP)

Overview – March 8, 2017 CAFO Rulemaking Petition from Food & Water Watch and Others

Petitioners:

Food and Water Watch
Arkansas Rights Coalition
Assateague Coastal Trust (MD)
Association of Irrigated Residents (CA)
Buffalo River Watershed Alliance (AR)
Center for Biological Diversity
Center for Food Safety
Concerned Citizens Against Industrial CAFOs (MD)
Dakota Rural Action (SD)
Dallas County Farmers and Neighbors (IA)
Des Moines Water Works (IA)
Dodge County Concerned Citizens (MN)
Don't Waste Arizona
Environmental Integrity Project
Grand Riverkeeper (OK)
Helping Others Maintain Environmental Standards (IL)
Illinois Citizens for Clean Air and Water (IL)
Institute for Agriculture and Trade Policy

Interfaith Worker Justice (NM)
Iowa Citizens for Community Improvement
Jefferson County Farmers and Neighbors (IA)
Johns Hopkins Center for a Livable Future
Kewaunee Citizens Advocating Responsible
Environmental Stewardship (WI)
Land Stewardship Project (MN)
Midwest Environmental Advocates (WI)
Missouri Rural Crisis Center
Moms Across America Eastern Shore (MD)
Montgomery Township Friends of Family Farms (PA)
North Carolina Environmental Justice Network
Ozark River Stewards (AR)
Patuxent Riverkeeper (MD)
Poweshiek Community Action to Restore
Environmental Stewardship (IA)
Preserve Our Shore Accomack County (VA)
Rio Valle Concerned Citizens (NM)

Relief Sought – Petitioners ask EPA to:

1. Establish an evidentiary presumption that certain CAFOs actually discharge

Ex. 5 Deliberative Process (DP)

2. Re-interpret agricultural stormwater exemption so that no discharges resulting from CAFO activities are exempt as non-point source pollution

Ex. 5 Deliberative Process (DP)

3. Ensure that integrators who meet the CWA definition of owner or operator are co-permitted with contract producers

Ex. 5 Deliberative Process (DP)

4. Revise the regulatory definitions of “medium CAFO” and “production area” and revise designation authorities

Ex. 5 Deliberative Process (DP)

5. Require water quality monitoring in all CAFO NPDES permits

Ex. 5 Deliberative Process (DP)

6. EPA should revise CAFO effluent guidelines

Ex. 5 Deliberative Process (DP)

Chronology

3/8/2017: FWW and 34 other organizations file petition

5/17/2017: Initial meeting with Deborah Nagle; agrees to dialogue.

7/5/2017: FWW leads hold planning call with Deborah Nagle to map next steps

8/30/2017. Call with Deborah Nagle and petitioner groups

2/27/2018. Call with Marcus Zobrist (as acting DD) and petitioner groups

(Ross and FWW have held several other planning and “touch base” calls.)

Observations about calls

Ex. 5 Deliberative Process (DP)

Topics for Discussion

Ex. 5 Deliberative Process (DP)

Message

From: Chan, Jennifer [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=98356966C6F44072B422B6FFD433BAE7-JCHAN]
Sent: 11/23/2020 6:49:02 PM
To: Kloss, Christopher [Kloss.Christopher@epa.gov]
CC: Utting, George [Utting.George@epa.gov]; Lopez-Carbo, Maria [Lopez-Carbo.Maria@epa.gov]; Zobrist, Marcus [Zobrist.Marcus@epa.gov]
Subject: RE: OWM Bi-Weekly
Attachments: FW: CAFO petitions: Talking Points for Andrew, and list of all the issues

Chris,

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Jennifer Chan

U.S. Environmental Protection Agency HQ

Industrial Branch | Water Permits Division | Office of Wastewater Management

Phone: (202) 564-3067 | **Email:** chan.jennifer@epa.gov

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Cc: Utting, George <Utting.George@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Nguyen, Amelia <nguyen.amelia@epa.gov>; Kloss, Christopher <Kloss.Christopher@epa.gov>

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U.S. Environmental Protection Agency HQ

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Cc: Kloss, Christopher <Kloss.Christopher@epa.gov>; Sylvester, Francis <Sylvester.Francis@epa.gov>

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Sincerely,
Amelia

Amelia Nguyen, Ph.D.
Acting Special Assistant
Office of Wastewater Management
Office: 202-564-4268
nguyen.amelia@epa.gov

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Sent from my iPhone

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Date: November 21, 2020 at 9:50:48 AM EST
To: "Sawyers, Andrew" <Sawyers.Andrew@epa.gov>
Cc: "Aguirre, Janita" <Aguirre.Janita@epa.gov>, "Laija, Emerald" <Laija.Emerald@epa.gov>
Subject: OWM Bi-Weekly

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- R10 permits (WLA, PN, 401)

Thanks

Anna Wildeman
Principal Deputy Assistant Administrator
Office of Water
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
202-564-5700
Wildeman.Anna@epa.gov

Message

From: Zobrist, Marcus [Zobrist.Marcus@epa.gov]
Sent: 11/23/2020 6:22:20 PM
To: Chan, Jennifer [Chan.Jennifer@epa.gov]
Subject: FW: CAFO petitions: Talking Points for Andrew, and list of all the issues
Attachments: Appendix A for Petitions to Revise CAFO Regulations draft2.docx; Talking Points for Andrew about CAFO Petitions mz.docx

Jennifer,

Forgot to copy you on this.

From: Zobrist, Marcus
Sent: Friday, November 20, 2020 4:53 PM
To: Kloss, Christopher <Kloss.Christopher@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>
Cc: Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>
Subject: CAFO petitions: Talking Points for Andrew, and list of all the issues

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Ex. 5 Deliberative Process (DP)

Marcus Zobrist |
Chief, Industrial Branch
U.S. Environmental Protection Agency
Office of Wastewater Management | Water Permits Division
Office: (202) 564-8311 **Ex. 6 Personal Privacy (PP)**
Zobrist.Marcus@epa.gov

This e-mail is intended solely for the use of the individual or entity to whom it is addressed and its content shall be regarded as confidential unless explicitly stated otherwise. If you have received this e-mail by mistake, please notify the sender immediately by e-mail and delete this e-mail from your system.

TRACKING STATUS	Branch/Region	Document Title	DEADLINE
1-URGENT at POC	IB	Ex. 5 Deliberative Process (DP)	
		CAFO 2 Rulemaking Petitions	update on progress to Anna by Nov 24th; aim for earlier
		Ex. 5 Deliberative Process (DP)	
	IO		
	NPB		
1-URGENT at WPD-IO	IB		
2 At POC	IB		
	MB		
2 At WPD-IO	MB		
	NPB		
At OMB	MB		
At Other	IO		
	NPB		

TRACKING STATUS	Branch/Region	Document Title	DEADLINE
At OW	IB	<div>Ex. 5 Deliberative Process (DP)</div>	
	IO		
	NPB		
At OWM	IB		
	IO		
	NPB		
RECENTLY CLOSED	IO		
	NPB		
	R6		

Message

From: Wood, Robert [Wood.Robert@epa.gov]
Sent: 11/23/2020 2:52:01 PM
To: Utting, George [Utting.George@epa.gov]
CC: Shriner, Paul [Shriner.Paul@epa.gov]; Zobrist, Marcus [Zobrist.Marcus@epa.gov]; Scozzafava, MichaelE [Scozzafava.MichaelE@epa.gov]; Damico, Brian [Damico.Brian@epa.gov]; Pritts, Jesse [Pritts.Jesse@epa.gov]
Subject: Re: CAFO petitions: Talking Points for Andrew, and list of all the issues

Thanks George. This is helpful to understand status and that's what my questions are really about.

*Robert Wood, Director
Engineering and Analysis Division
U.S. EPA Office of Water
202-566-1822*

On Nov 23, 2020, at 9:21 AM, Utting, George <Utting.George@epa.gov> wrote:

Ex. 5 Deliberative Process (DP)

From: Wood, Robert <Wood.Robert@epa.gov>
Sent: Monday, November 23, 2020 7:53 AM
To: Shriner, Paul <Shriner.Paul@epa.gov>
Cc: Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Scozzafava, MichaelE <Scozzafava.MichaelE@epa.gov>; Damico, Brian <Damico.Brian@epa.gov>; Utting, George <Utting.George@epa.gov>; Pritts, Jesse <Pritts.Jesse@epa.gov>
Subject: Re: CAFO petitions: Talking Points for Andrew, and list of all the issues

Ex. 5 Deliberative Process (DP)

Robert Wood, Director
Engineering and Analysis Division
U.S. EPA Office of Water
202-566-1822

On Nov 23, 2020, at 7:20 AM, Shriner, Paul <Shriner.Paul@epa.gov> wrote:

Ex. 5 Deliberative Process (DP)

Paul

From: Wood, Robert <Wood.Robert@epa.gov>
Sent: Monday, November 23, 2020 7:01 AM
To: Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Cc: Scozzafava, MichaelE <Scozzafava.MichaelE@epa.gov>; Damico, Brian <Damico.Brian@epa.gov>; Utting, George <Utting.George@epa.gov>; Shriner, Paul <Shriner.Paul@epa.gov>; Pritts, Jesse <Pritts.Jesse@epa.gov>
Subject: Re: CAFO petitions: Talking Points for Andrew, and list of all the issues

Ex. 5 Deliberative Process (DP)

Robert Wood, Director
Engineering and Analysis Division
U.S. EPA Office of Water
202-566-1822

On Nov 20, 2020, at 4:58 PM, Zobrist, Marcus
<Zobrist.Marcus@epa.gov> wrote:

Rob,

Ex. 5 Deliberative Process (DP)

From: Zobrist, Marcus
Sent: Friday, November 20, 2020 4:53 PM
To: Kloss, Christopher <Kloss.Christopher@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>
Cc: Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>
Subject: CAFO petitions: Talking Points for Andrew, and list of all the issues

Chris, Maria,

Regarding the two petitions to revise the CAFO regulations that we have been asked by Anna Wildeman to review and potentially respond to in short order. In order to better understand the scope of the petitions and the commitment of resources that would be necessary to respond to them, I am sharing two documents. One is a set of talking points for Andrew, for potential use at the next bi-weekly with OW. The other is an appendix that charts out the issues raised in the petitions. Note, the

Ex. 5 Deliberative Process (DP)

Marcus Zobrist |
Chief, Industrial Branch
U.S. Environmental Protection Agency
Office of Wastewater Management | Water Permits Division
Office: (202) 564-8311 **Ex. 6 Personal Privacy (PP)**
Zobrist.Marcus@epa.gov

This e-mail is intended solely for the use of the individual or entity to whom it is addressed and its content shall be regarded as confidential unless explicitly stated otherwise. If you have received this e-mail by mistake, please notify the sender immediately by e-mail and delete this e-mail from your system.

<Appendix A for Petitions to Revise CAFO Regulations draft2.docx>
<Talking Points for Andrew about CAFO Petitions mz.docx>

Message

From: Shriner, Paul [Shriner.Paul@epa.gov]
Sent: 11/19/2020 7:08:30 PM
To: Damico, Brian [Damico.Brian@epa.gov]; Pritts, Jesse [Pritts.Jesse@epa.gov]
Subject: FYI: two CAFO petitions under review
Attachments: Talking Points for Andrew about CAFO Petitions draft.docx; Appendix A for Petitions to Revise CAFO Regulations draft.docx; citizens_cafo_cwa_petition.pdf; Brotzman_Alt Petition.pdf

Once you determine who has the lead for CAFOs, you will want to look at the “talking points for Andrew” file so you can inform Rob.

Enjoy!

From: Utting, George <Utting.George@epa.gov>
Sent: Thursday, November 19, 2020 1:44 PM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Cc: Shriner, Paul <Shriner.Paul@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>
Subject: CAFO petitions under review

As you may know, EPA received two petitions to revise the CAFO regulations, in 2015 and 2017. We have been asked by Anna Wildeman to take a look at them and develop a response to them. In order to better understand the scope of the petitions and the commitment of resources that would be necessary to respond to them, I am sharing two draft documents. One is a set of talking points for Andrew and the other is an appendix that charts out the issues raised in the petitions.

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Message

From: Utting, George [Utting.George@epa.gov]
Sent: 3/31/2021 9:40:17 PM
To: Molloy, Jennifer [molloy.jennifer@epa.gov]; Kloss, Christopher [Kloss.Christopher@epa.gov]
CC: Bathersfield, Nizanna [Bathersfield.Nizanna@epa.gov]; Zobrist, Marcus [Zobrist.Marcus@epa.gov]; Durant, Chelsea [durant.chelsea@epa.gov]; Halter, Emily [Halter.Emily@epa.gov]
Subject: RE: draft CAFO briefing materials

<!--[if lte mso 15 || CheckWebRef]-->

Utting, George has shared a OneDrive for Business file with you. To view it, click the link below.



CAFO Briefing 30Mar.docx

Ex. 5 Deliberative Process (DP)

Let me know if you need more info.

GU

From: Molloy, Jennifer <molloy.jennifer@epa.gov>
Sent: Tuesday, March 30, 2021 6:13 PM
To: Kloss, Christopher <Kloss.Christopher@epa.gov>
Cc: Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Durant, Chelsea <durant.chelsea@epa.gov>; Utting, George <Utting.George@epa.gov>; Halter, Emily <Halter.Emily@epa.gov>
Subject: draft CAFO briefing materials

Chris:

Here is the draft CAFO briefing along with a supplemental ppt. We're still working out a few of the kinks since George is out today and Marcus was out all afternoon. However, hopefully there's enough substance here for you to review and comment.

<https://teams.microsoft.com/#/files/Branch%20Active%20Projects?threadId=19%3A968ac5537bff453585ba69871d8720cd%40thread.skype&ctx=channel&context=CAFO%2520Briefing&rootfolder=%252Fsites%252FWaterPermitsDivision-IO%252FShared%2520Documents%252FBranch%2520Active%2520Projects%252FCAFO%2520Briefing>

Thanks, Jenny

Jenny Molloy
U.S. Environmental Protection Agency
Water Permits Division

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Background

CAFOs were identified as point sources in the CWA and NPDES regulations promulgated in the 1970s. However, it wasn't until the early 2000s that more specific permitting regulations and an effluent guideline were established. EPA's 2003 CAFO rule was challenged by Waterkeeper Alliance et al, and a portion remanded. EPA issued revisions in 2008 that were immediately challenged by National Pork Producers Council et al (NPPC), and that court issued another partial remand. EPA issued a revised rule in 2012.

- The 2012 rule, consistent with the holding in NPPC stipulated that only CAFOs that discharge must have an NPDES permit. As a result, the number of permitted CAFOs in the U.S. has decreased. Meanwhile, the number of CAFOs in the U.S. has increased. While the number of CAFOs in the U.S. is trending upwards (12.6% increase between 2011 and 2019), the number with permits is trending downwards (12% decrease in the same time period). Currently there are approximately 21,000 CAFOs in the U.S. and approximately 6,700 (32%) of them have NPDES coverage. Some CAFOs have coverage under state permits.
- Some numeric context:
 - With respect to numbers of farms: there are nearly 1 million farms in the U.S. with livestock.
 - With respect to numbers of animals: there are approximately 82 million livestock animals in the U.S. Approximately 60 million of them (42%) are at CAFOs (permitted and unpermitted).
 - With respect to numbers of fertilized acres: there are approximately 250 million fertilized farm acres in the U.S. Of those, approximately 20 million are fertilized with manure. Of those, approximately 2 million manured acres (or 1% of total fertilized farm acres) are at CAFOs (permitted and unpermitted).

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Non-regulatory

Ex. 5 Deliberative Process (DP)

Regulatory

Ex. 5 Deliberative Process (DP)

Current Challenges, Opportunities, Possible Endeavors

- In 2016 Food & Water Watch, et al petitioned EPA to make changes to the CAFO program.
 - The petition outlines, **Ex. 5 Deliberative Process (DP)** flaws of the program and the resulting failure to adequately control pollution from CAFOs.
 - The petition makes many suggestions for how EPA should fix the shortcomings. In many cases, EPA has attempted these or similar fixes and been struck down by the courts.
 - EPA has not responded to the petition. **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP)

-
- **Ex. 5 Deliberative Process (DP)**
-

Conclusions/Take Home Messages

Ex. 5 Deliberative Process (DP)

Message

From: Durant, Chelsea [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=5C90F2C4DBEE42F8A0838203234C6611-DURANT, CHE]
Sent: 2/4/2021 4:19:12 PM
To: Molloy, Jennifer [molloy.jennifer@epa.gov]; Utting, George [Utting.George@epa.gov]; Bathersfield, Nizanna [Bathersfield.Nizanna@epa.gov]
Subject: RE: next CAFO bi-weekly check-in

Sounds good. Nina is out during our next scheduled meeting (2/18), so I will push it to Thursday (2/19).

CD

From: Molloy, Jennifer <molloy.jennifer@epa.gov>
Sent: Thursday, February 4, 2021 11:11 AM
To: Durant, Chelsea <durant.chelsea@epa.gov>; Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>
Subject: next CAFO bi-weekly check-in

Ex. 5 Deliberative Process (DP)

Jenny Molloy
U.S. EPA
Water Permits Division

Ex. 6 Personal Privacy (PP)

molloy.jennifer@epa.gov

Message

From: Molloy, Jennifer [molloy.jennifer@epa.gov]
Sent: 7/12/2019 5:34:34 PM
To: Pickrel, Jan [Pickrel.Jan@epa.gov]; OW-OWM-PD-Industrial Branch [OWOWMPDIndustrial_Branch@epa.gov]
Subject: RE: ACWA Weekly Wrap Vol. X, Issue 24 (Week of July 8, 2019)

Fortunately for us, this is an air emissions EPCRA-related issue. More work for Hema, though.

I keep waiting for the notice of intent to sue us from FWW et al since it has now been more than 2 years since they filed their petition.

Jenny Molloy
U.S. EPA
Water Permits Division
202.564.1939
molloy.jennifer@epa.gov

From: Pickrel, Jan
Sent: Friday, July 12, 2019 1:06 PM
To: OW-OWM-PD-Industrial Branch <OWOWMPDIndustrial_Branch@epa.gov>
Subject: FW: ACWA Weekly Wrap Vol. X, Issue 24 (Week of July 8, 2019)

Juhi – there is a linked presentation on VIDA.
Chelsea, George, Jenny – discussion on CAFO.
Sean & Scott – discussion on Maui

From: Katie Foreman <kforeman@acwa-us.org>
Sent: Friday, July 12, 2019 12:55 PM
To: Pickrel, Jan <Pickrel.Jan@epa.gov>
Subject: ACWA Weekly Wrap Vol. X, Issue 24 (Week of July 8, 2019)

This Week's Wrap is accessible here:

<https://www.acwa-us.org/acwa-weekly-wrap-vol-x-issue-24-week-of-july-8-2019/>

In this issue...

- Federalism Consultation Begins for VIDA
- ACWA/ASDWA Submit Comments on Water Reuse Action Plan
- Supreme Court Groundwater Case Argument Scheduled
- Meetings and more!

What is the Wrap? The Weekly Wrap is a road map of the past week's events and upcoming activities. The Wrap reminds our membership of important deadlines and highlights important information. Please direct any Wrap comments to Katie Foreman at kforeman@acwa-us.org.

Sincerely,

In the past you have provided Association of Clean Water Administrators with your email address. Occasionally, you will receive e-newsletters and other announcements from us. If you no longer wish to receive these messages, you may [unsubscribe](#) at any time.

Message

From: Molloy, Jennifer [molloy.jennifer@epa.gov]
Sent: 4/21/2021 1:19:31 PM
To: Utting, George [Utting.George@epa.gov]; Bathersfield, Nizanna [Bathersfield.Nizanna@epa.gov]; Zobrist, Marcus [Zobrist.Marcus@epa.gov]; Durant, Chelsea [durant.chelsea@epa.gov]
Subject: RE: CAFO briefing

Ex. 5 Deliberative Process (DP)

Jenny Molloy
U.S. Environmental Protection Agency
Water Permits Division

Ex. 6 Personal Privacy (PP)

From: Utting, George <Utting.George@epa.gov>
Sent: Wednesday, April 21, 2021 9:19 AM

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

That said, I'm pretty sure Iowa was one of the drivers for the CAFO petition.

From: Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>
Sent: Wednesday, April 21, 2021 9:03 AM
To: Molloy, Jennifer <molloy.jennifer@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Utting, George <Utting.George@epa.gov>; Durant, Chelsea <durant.chelsea@epa.gov>
Subject: RE: CAFO briefing

Ex. 5 Deliberative Process (DP)

Nizanna Bathersfield
Attorney Adviser
US EPA, Office of Water
On detail to OW/OPME
202.564.2258

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From: Molloy, Jennifer <molloy.jennifer@epa.gov>

Sent: Wednesday, April 21, 2021 7:07 AM

To: Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Utting, George <Utting.George@epa.gov>; Durant, Chelsea <durant.chelsea@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>

Subject: RE: CAFO briefing

Ex. 5 Deliberative Process (DP)

Jenny Molloy

U.S. Environmental Protection Agency

Water Permits Division

Ex. 6 Personal Privacy (PP)

From: Zobrist, Marcus <Zobrist.Marcus@epa.gov>

Sent: Tuesday, April 20, 2021 5:39 PM

To: Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Durant, Chelsea <durant.chelsea@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>

Subject: RE: CAFO briefing

Ex. 5 Deliberative Process (DP)

From: Molloy, Jennifer <molloy.jennifer@epa.gov>

Sent: Tuesday, April 20, 2021 4:47 PM

To: Utting, George <Utting.George@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Durant, Chelsea <durant.chelsea@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>

Subject: RE: CAFO briefing

Ex. 5 Deliberative Process (DP)

Jenny Molloy

U.S. Environmental Protection Agency

Water Permits Division

Ex. 6 Personal Privacy (PP)

From: Utting, George <Utting.George@epa.gov>

Sent: Tuesday, April 20, 2021 4:44 PM

To: Molloy, Jennifer <molloy.jennifer@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Durant, Chelsea <durant.chelsea@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>

Subject: RE: CAFO briefing

Ex. 5 Deliberative Process (DP)

From: Molloy, Jennifer <molloy.jennifer@epa.gov>

Sent: Tuesday, April 20, 2021 4:31 PM

To: Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Utting, George <Utting.George@epa.gov>; Durant, Chelsea <durant.chelsea@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>

Subject: CAFO briefing

Ex. 5 Deliberative Process (DP)

Jenny Molloy

U.S. Environmental Protection Agency

Water Permits Division

Ex. 6 Personal Privacy (PP)

Message

From: Socha, Julianne [socha.julianne@epa.gov]
Sent: 3/31/2021 9:16:05 PM
To: Molloy, Jennifer [molloy.jennifer@epa.gov]; Durant, Chelsea [durant.chelsea@epa.gov]
Subject: RE: Food Water Watch petition to revise CAFO rules

Thanks!

I may want to come back to the CAFO program **Ex. 5 Deliberative Process (DP)**

julianne

Julianne Socha
Watersheds Section | Watersheds & Wetlands Branch
Water Division | Region 5 | U.S. EPA
77 W. Jackson Blvd. WW-16J | Chicago IL 60604
312-886-4436 | socha.julianne@epa.gov

From: Molloy, Jennifer <molloy.jennifer@epa.gov>
Sent: Wednesday, March 31, 2021 4:08 PM
To: Socha, Julianne <socha.julianne@epa.gov>; Durant, Chelsea <durant.chelsea@epa.gov>
Subject: RE: Food Water Watch petition to revise CAFO rules

Julianne:

We still haven't responded. However, we haven't forgotten about it. As a matter of fact we're trying to queue it up for Radhika our new AA a **Ex. 5 Deliberative Process (DP)**

Jenny Molloy
U.S. Environmental Protection Agency
Water Permits Division

Ex. 6 Personal Privacy (PP)

From: Socha, Julianne <socha.julianne@epa.gov>
Sent: Wednesday, March 31, 2021 5:05 PM
To: Molloy, Jennifer <molloy.jennifer@epa.gov>; Durant, Chelsea <durant.chelsea@epa.gov>
Subject: Food Water Watch petition to revise CAFO rules

Hi Jenny and Chelsea –

Although my reassignment is effective, I still have a few CAFO matters to resolve. I am looking for a copy of EPA's response to the March 2017 petition filed by Food Water Watch requesting EPA to revise the CAFO rules. If either of you have a copy of EPA's response, would you please forward to me. Thanks.

julianne

Julianne Socha
Watersheds Section | Watersheds & Wetlands Branch
Water Division | Region 5 | U.S. EPA
77 W. Jackson Blvd. WW-16J | Chicago IL 60604
312-886-4436 | socha.julianne@epa.gov

Message

From: Kupchan, Simma [Kupchan.Simma@epa.gov]
Sent: 11/19/2020 4:33:48 PM
To: Fotouhi, David [Fotouhi.David@epa.gov]
CC: Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Levine, MaryEllen [levine.maryellen@epa.gov]
Subject: CAFO Petition from Food and Water Watch
Attachments: citizens_cafo_cwa_petition.pdf

Flag: Follow up

David,

Ex. 5 AC/DP

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Simma Kupchan
EPA Office of General Counsel
Water Law Office
WJC North Building # 7426Q
202-564-3105

Message

From: Wildeman, Anna [wildeman.anna@epa.gov]
Sent: 11/1/2020 11:28:18 PM
To: Fotouhi, David [Fotouhi.David@epa.gov]; Ross, David P [ross.davidp@epa.gov]; Bertrand, Charlotte [Bertrand.Charlotte@epa.gov]
CC: Aguirre, Janita [Aguirre.Janita@epa.gov]
Subject: Alt
Attachments: Alt v EPA.pdf; Brotzman_Alt Petition.pdf; FWW Alt Petition.pdf

FYI here is a copy of the Alt decision and the two petitions we have pending before OW to revise the CAFO regulations. One petition was filed in 2015, the other in 2017 and **Ex. 5 Deliberative Process (DP)** Including Charlotte here because the FWW petition also asks EPA to revise its ELG for large CAFOs. We should discuss **Ex. 5 Deliberative Process (DP)** so we can map out a timeline for getting responses out the door.

Thanks,
Anna

Anna Wildeman
Principal Deputy Assistant Administrator
Office of Water
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
202-564-5700
Wildeman.Anna@epa.gov

Message

From: Galloway, Carol [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EEE9CC5B178D43D8B620D3545E355E75-GALLOWAY, CAROL]
Sent: 10/13/2017 6:18:19 PM
To: Subramanian, Hema [Subramanian.Hema@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Shenk, Kelly [shenk.kelly@epa.gov]; Greenwald, Kathryn [Greenwald.Kathryn@epa.gov]
Subject: Revisions to AADG presentation
Attachments: AADG Next Steps.pptx

Hi all,

Ex. 5 Deliberative Process (DP)

Thanks, and let me know what you think.

From: Subramanian, Hema
Sent: Wednesday, October 11, 2017 12:58 PM
To: Galloway, Carol <Galloway.Carol@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>
Cc: Shenk, Kelly <shenk.kelly@epa.gov>
Subject: RE: Anyone available to start the next CAFO call?

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Thanks again,
---Hema.

Hema Subramanian
Environmental Protection Specialist
U.S. Environmental Protection Agency
Office of Water: Office of Wastewater Management/Water Permits Division/Rural Branch
1200 Pennsylvania Avenue, NW
Mail Code 4203M
Washington, DC 20460
Phone (202) 564-5041
subramanian.hema@epa.gov

From: Subramanian, Hema
Sent: Tuesday, October 10, 2017 5:50 PM
To: Galloway, Carol <Galloway.Carol@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>
Cc: Shenk, Kelly <shenk.kelly@epa.gov>
Subject: RE: Anyone available to start the next CAFO call?

Hi Carol,

Ex. 5 Deliberative Process (DP)

---Hema.

Hema Subramanian
Environmental Protection Specialist
U.S. Environmental Protection Agency
Office of Water: Office of Wastewater Management/Water Permits Division/Rural Branch
1200 Pennsylvania Avenue, NW
Mail Code 4203M
Washington, DC 20460
Phone (202) 564-5041
subramanian.hema@epa.gov

From: Galloway, Carol

Sent: Friday, October 06, 2017 2:06 PM

To: Molloy, Jennifer <molloy.jennifer@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>

Subject: FW: Anyone available to start the next CAFO call?

Jenny,

Great!! It's a deal. My leader PIN is **Ex. 6 Personal Privacy (PP)**

I'll check on Quoc's availability. Thanks!

From: Molloy, Jennifer

Sent: Friday, October 06, 2017 12:50 PM

To: Galloway, Carol <Galloway.Carol@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>

Subject: RE: Anyone available to start the next CAFO call?

I can do it if you like. I could also cover the first 2 topics, although if Quoc or someone from OGC is available that might be better.

Jenny Molloy

U.S. EPA

Water Permits Division

202.564.1939

molloy.jennifer@epa.gov

From: Galloway, Carol

Sent: Friday, October 06, 2017 11:49 AM

To: Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>

Subject: Anyone available to start the next CAFO call?

I have an appt next Thursday and I'm not sure I'll be available at the start of the call. Anybody want to lead the call next week?

Here are the agenda items so far:

- Petition to revise the CAFO regs – Hema?
- FOIA redaction rules – TBD
- Air reporting vacatur – Patty Gioffre, Acting Deputy Division Director, Regulations Implementation Division, OEM (confirmed)
- Redaction of NMP info by states – David Rice, R8 (confirmed)
- *Unconfirmed* --Update on the "Agricultural Air Quality Conservation Measures: Reference Guide for Poultry and Livestock Production Systems" – Bill Schrock

Carol Galloway

913-551-5092

Pesticides, Waste and Toxics Branch

Monitoring, Assistance and Media Programs Division

Office of Compliance
CAFO Coordinator
Tribal Pesticides
Worker Safety
Certification and Training
Pollinator Protection

EPA National Ag Center
<http://www.epa.gov/agriculture>

Mailing address:
EPA R7 STC/Ag Center
300 Minnesota Ave.
Kansas City, KS 66101

Appointment

From: Galloway, Carol [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EEE9CC5B178D43D8B620D3545E355E75-GALLOWAY, CAROL]
Sent: 10/11/2017 11:51:59 PM
To: Adams, Margery [adams.margery@epa.gov]; Arvizu, Christy [Arvizu.Christy@epa.gov]; Atkinson, Benjamin [atkinson.ben@epa.gov]; Bahr, Ryan [bahr.ryan@epa.gov]; Blanco-Gonzalez, Joel [Blanco-Gonzalez.Joel@epa.gov]; Boisclair, Diane [boisclair.diane@epa.gov]; Bonnelycke, Nina [Bonnelycke.Nina@epa.gov]; Breedlove, Dan [Breedlove.Dan@epa.gov]; Bukhari, Samir [Bukhari.Samir@epa.gov]; Burdett, Cheryl [burdett.cheryl@epa.gov]; Bush, William [Bush.William@epa.gov]; Campbell, Gwen [Campbell.Gwen@epa.gov]; Chang-Vaughan, Ellen [Chang-Vaughan.Ellen@epa.gov]; Chase, Felicia [chase.felicia@epa.gov]; Coats, Andrea [Coats.Andrea@epa.gov]; Cozad, David [Cozad.David@epa.gov]; Dart, Denny [Dart.Denny@epa.gov]; Davies, Lauris [Davies.Lauris@epa.gov]; Drelich, David [Drelich.David@epa.gov]; Duchovnay, Andrew [Duchovnay.Andrew@epa.gov]; Gable, Kelly [Gable.Kelly@epa.gov]; Greenberg, Ken [Greenberg.Ken@epa.gov]; Greenwald, Kathryn [Greenwald.Kathryn@epa.gov]; Hamera, Donald [Hamera.Don@epa.gov]; Heinemann, Kristina [Heinemann.Kristina@epa.gov]; Herbert, Rusty [Herbert.Rusty@epa.gov]; Hom, Michael [Hom.Michael@epa.gov]; Huffman, Diane [Huffman.Diane@epa.gov]; Jackson, Julia [Jackson.Julia@epa.gov]; Jann, Stephen [jann.stephen@epa.gov]; Joe, Don [Joe.Don@epa.gov]; Schefski, Melissa [Schefski.Melissa@epa.gov]; Kenknight, Jeff [Kenknight.Jeff@epa.gov]; Kermish, Laurie [Kermish.Laurie@epa.gov]; Kroening, Peg [Kroening.Margaret@epa.gov]; Kuefler, Patrick [kuefler.patrick@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]; Kwok, Rose [Kwok.Rose@epa.gov]; Lane, Willie [Lane.Willie@epa.gov]; Lister, Chris [Lister.Chris@epa.gov]; Livingston, Peggy [Livingston.Peggy@epa.gov]; Lopez, Jaime [Lopez.Jaime@epa.gov]; Lukowich, Michael [lukowich.michael@epa.gov]; Massey, Michael [Massey.Michael@epa.gov]; McDonald, Scott [mcdonald.scott@epa.gov]; Mikalian, Charles [mikalian.charles@epa.gov]; Mitschele, Becky [Mitschele.Becky@epa.gov]; Modigliani, Justine [Modigliani.Justine@epa.gov]; Moody, Jonathan [moody.jonathan@epa.gov]; Moores, Steven [Moores.Steven@epa.gov]; Morgan, James [Morgan.James@epa.gov]; Mortensen, Ginah [mortensen.ginah@epa.gov]; Ogle, Kimberly [Ogle.Kimberly@epa.gov]; Oviedo, Luis [oviedo.luis@epa.gov]; Peak, Nicholas [Peak.Nicholas@epa.gov]; Plymale, Chris [Plymale.Christopher@epa.gov]; Pollard, Stephen [Pollard.Stephen@epa.gov]; Porter, Donna [Porter.Donna@epa.gov]; Potokar, Steven [Potokar.Steven@epa.gov]; Rogers, Joan [rogers.joan@epa.gov]; Sampath, Sam [Sampath.Sam@epa.gov]; Schwer, Don [Schwer.Don@epa.gov]; Segall, Martha [Segall.Martha@epa.gov]; Senkayi, Abu [Senkayi.Abu@epa.gov]; Silver, Wendy [Silver.Wendy@epa.gov]; Sipe, Diane [Sipe.Diane@epa.gov]; Socha, Julianne [socha.julianne@epa.gov]; Stokely, Peter [Stokely.Peter@epa.gov]; Sullivan, Tim [Sullivan.Tim@epa.gov]; Sutin, Elyana [Sutin.Elyana@epa.gov]; Theis, Joseph [Theis.Joseph@epa.gov]; Thomas, Lee [Thomas.Lee@epa.gov]; Thompson, Robert [thompson.robert@epa.gov]; Thuot, Lisa [Thuot.Lisa@epa.gov]; Tipton, Lantz [tipton.lantz@epa.gov]; Urban, Trevor [Urban.Trevor@epa.gov]; Utting, George [Utting.George@epa.gov]; Vanlerberghe, Daren [Vanlerberghe.Daren@epa.gov]; Vantil, Barbara [vantil.barbara@epa.gov]; Vuilleumier, Kevin [vuilleumier.kevin@epa.gov]; Weiler, Eaton [weiler.eaton@epa.gov]; Whitson, Amelia [Whitson.Amelia@epa.gov]; Williams, Nancy [Williams.Nancy@epa.gov]; Wills, Carl [wills.carl@epa.gov]; Witt, Richard [Witt.Richard@epa.gov]; Zolandz, Mark [Zolandz.Mark@epa.gov]; Boeglin, Michael [Boeglin.Michael@epa.gov]; Vezner, Kris [vezner.kris@epa.gov]; Ibarra, Juan [Ibarra.Juan@epa.gov]; Draper, Seth [Draper.Seth@epa.gov]; Anderson, Kate [Anderson.Kate@epa.gov]; Wetherington, Michele [Wetherington.Michele@epa.gov]; Savino, Kathleen [Savino.Kathleen@epa.gov]; Chan, Janice [Chan.Janice@epa.gov]; Goldstein, Jessica [goldstein.jessica@epa.gov]; Cooper, WilliamF [Cooper.WilliamF@epa.gov]; Quigley, Heather [Quigley.Heather@epa.gov]; Mills, Clarissa [mills.clarissa@epa.gov]; Rise, David [rise.david@epa.gov]; Saporita, Chris [Saporita.Chris@epa.gov]; Smith, Brittany [Smith.Brittany@epa.gov]; Arcaya, alyssa [arcaya.alyssa@epa.gov]; Buterbaugh, Kristin [Buterbaugh.Kristin@epa.gov]; Nagrani, Kavita [Nagrani.Kavita@epa.gov]; Nguyen, Quoc [Nguyen.Quoc@epa.gov]
CC: Ordonez, Efren [ordonez.efren@epa.gov]; Henson, Tucker [Henson.Tucker@epa.gov]; Murdock, Russell [Murdock.Russell@epa.gov]; Campbell, Rich [Campbell.Rich@epa.gov]; Subramanian, Hema [Subramanian.Hema@epa.gov]; Ziobro, Joseph [Ziobro.Joseph@epa.gov]; Gholson, Greg [Gholson.Greg@epa.gov]; Bandrowicz, Toni [bandrowicz.toni@epa.gov]; Grubb, Christopher [Grubb.Christopher@epa.gov]; Roberts, Connie [Roberts.Connie@epa.gov]; Jones, Kristin [jones.kristin@epa.gov]; Hodaj, Andi [hodaj.andi@epa.gov]; Kostek, Daniel [kostek.daniel@epa.gov]; Johnston, Carey [Johnston.Carey@epa.gov]; Yourish, Jesse [yourish.jesse@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Nina Bonnelycke [nbonnelycke@msn.com]; Clark, Amy [Clark.Amy@epa.gov]; Juarez, Paul [Juarez.Paul@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Smith, DavidW [Smith.DavidW@epa.gov]; O'Lone, Dan [Olone.Dan@epa.gov]; Armor, Suzanne [Armor.Suzanne@epa.gov]; Spejewski, Andrew [Spejewski.Andrew@epa.gov]; Howard, MarkW [Howard.MarkW@epa.gov]; Tinger, John [Tinger.John@epa.gov]; Colletti, John [colletti.john@epa.gov]; Denise Hamilton [Hamilton.Denise@epa.gov];

Houlihan, Damien [houlihan.damien@epa.gov]; Rosenberg, Alex [Rosenberg.Alex@epa.gov]; Abrams, Nancy [Abrams.Nancy@epa.gov]; Brennan, Ross [Brennan.Ross@epa.gov]; Cunningham, Caitlin [cunningham.caitlin@epa.gov]; WEISS, MICHAEL [weiss.michael@epa.gov]; Perez, Daniel [Perez.Daniel@epa.gov]; Hayes, Mark [hayes.mark@epa.gov]

Subject: Agenda added -- Monthly CAFO Program & Compliance Coordinators' Call 2:00 - 3:30 Eastern

Location: Ex. 6 Personal Privacy (PP)

Start: 10/12/2017 6:00:00 PM

End: 10/12/2017 7:30:00 PM

Show Time As: Tentative

Recurrence: Monthly

the second Thursday of every 1 month(s) from 1:00 PM to 2:30 PM

Required Attendees: Adams, Margery; Arvizu, Christy; Atkinson, Benjamin; Bahr, Ryan; Blanco-Gonzalez, Joel; Boisclair, Diane; Bonnelycke, Nina; Breedlove, Dan; Bukhari, Samir; Burdett, Cheryl; Bush, William; Campbell, Gwen; Chang-Vaughan, Ellen; Chase, Felicia; Coats, Andrea; Cozad, David; Dart, Denny; Davies, Lauris; Drelich, David; Duchovnay, Andrew; Gable, Kelly; Greenberg, Ken; Greenwald, Kathryn; Hamera, Donald; Heinemann, Kristina; Herbert, Rusty; Hom, Michael; Huffman, Diane; Jackson, Julia; Jann, Stephen; Joe, Don; Schefski, Melissa; Kenknight, Jeff; Kermish, Laurie; Kroening, Peg; Kuefler, Patrick; Kupchan, Simma; Kwok, Rose; Lane, Willie; Lister, Chris; Livingston, Peggy; Lopez, Jaime; Lukowich, Michael; Massey, Michael; McDonald, Scott; Mikalian, Charles; Mitschele, Becky; Modigliani, Justine; Moody, Jonathan; Moores, Steven; Morgan, James; Mortensen, Ginah; Ogle, Kimberly; Oviedo, Luis; Peak, Nicholas; Plymale, Chris; Pollard, Stephen; Porter, Donna; Potokar, Steven; Rogers, Joan; Sampath, Sam; Schwer, Don; Segall, Martha; Senkayi, Abu; Silver, Wendy; Sipe, Diane; Socha, Julianne; Stokely, Peter; Sullivan, Tim; Sutin, Elyana; Theis, Joseph; Thomas, Lee; Thompson, Robert; Thuot, Lisa; Tipton, Lantz; Urban, Trevor; Utting, George; Vanlerberghe, Daren; Vantil, Barbara; Vuilleumier, Kevin; Weiler, Eaton; Whitson, Amelia; Williams, Nancy; Wills, Carl; Witt, Richard; Zolandz, Mark; Boeglin, Michael; Vezner, Kris; Ibarra, Juan; Draper, Seth; Anderson, Kate; Wetherington, Michele; Savino, Kathleen; Chan, Janice; Goldstein, Jessica; Cooper, WilliamF; Quigley, Heather; Mills, Clarissa; Rise, David; Saporita, Chris; Smith, Brittany; Arcaya, alyssa; Buterbaugh, Kristin; Nagrani, Kavita; nguyen.quoc@epa.gov

Optional Attendees: Ordonez, Efren; Henson, Tucker; Murdock, Russell; Campbell, Rich; Subramanian, Hema; Ziobro, Joseph; Gholson, Greg; Bandrowicz, Toni; Grubb, Christopher; Roberts, Connie; Jones, Kristin; Hodaj, Andi; Kostek, Daniel; Johnston, Carey; Yourish, Jesse; Gioffre, Patricia; Nina Bonnelycke; Clark, Amy; Juarez, Paul; Molloy, Jennifer; Smith, DavidW; O'Lone, Dan; Armor, Suzanne; Spejewski, Andrew; Howard, MarkW; Tinger, John; Colletti, John; Denise Hamilton; Houlihan, Damien; Rosenberg, Alex; Abrams, Nancy; Brennan, Ross; Cunningham, Caitlin; WEISS, MICHAEL; Perez, Daniel; Hayes, Mark

Thanks to Jenny Molloy for moderating the call this week!

Agenda items:

Roll Call

Discussion Topics:

- FOIA redaction rules – Quoc Nguyen, OGC
- Petition to revise the CAFO regs – Jenny Molloy, OWM
- Air reporting vacatur – Patty Gioffre, Acting Deputy Division Director, Regulations Implementation Division, OEM
- Redaction of NMP info by states – David Rice, R8

HQ updates

Regional updates

Message

From: Galloway, Carol [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EEE9CC5B178D43D8B620D3545E355E75-GALLOWAY, CAROL]
Sent: 10/6/2017 10:54:13 PM
To: Molloy, Jennifer [molloy.jennifer@epa.gov]
Subject: FW: Anyone available to start the next CAFO call?

Quoc agreed to talk about the FOIA rules, but would like to go first, right after roll call.

From: Molloy, Jennifer
Sent: Friday, October 06, 2017 1:28 PM
To: Galloway, Carol <Galloway.Carol@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>
Subject: RE: Anyone available to start the next CAFO call?

Thanks. BTW – I was really just referring to Quoc for the FOIA issue.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Jenny Molloy
U.S. EPA
Water Permits Division
202.564.1939
molloy.jennifer@epa.gov

From: Galloway, Carol
Sent: Friday, October 06, 2017 2:06 PM
To: Molloy, Jennifer <molloy.jennifer@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>
Subject: FW: Anyone available to start the next CAFO call?

Jenny,

Great!! It's a deal. My leader PIN is Ex. 6 Personal Privacy (PP)

I'll check on Quoc's availability. Thanks!

From: Molloy, Jennifer
Sent: Friday, October 06, 2017 12:50 PM
To: Galloway, Carol <Galloway.Carol@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>
Subject: RE: Anyone available to start the next CAFO call?

I can do it if you like. I could also cover the first 2 topics, although if Quoc or someone from OGC is available that might be better.

Jenny Molloy
U.S. EPA
Water Permits Division
202.564.1939
molloy.jennifer@epa.gov

From: Galloway, Carol

Sent: Friday, October 06, 2017 11:49 AM

To: Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>

Subject: Anyone available to start the next CAFO call?

I have an appt next Thursday and I'm not sure I'll be available at the start of the call. Anybody want to lead the call next week?

Here are the agenda items so far:

- Petition to revise the CAFO regs – Hema?
- FOIA redaction rules – TBD
- Air reporting vacatur – Patty Gioffre, Acting Deputy Division Director, Regulations Implementation Division, OEM (confirmed)
- Redaction of NMP info by states – David Rice, R8 (confirmed)
- *Unconfirmed* --Update on the "Agricultural Air Quality Conservation Measures: Reference Guide for Poultry and Livestock Production Systems" – Bill Schrock

Carol Galloway
913-551-5092

Pesticides, Waste and Toxics Branch
Monitoring, Assistance and Media Programs Division
Office of Compliance
CAFO Coordinator
Tribal Pesticides
Worker Safety
Certification and Training
Pollinator Protection

EPA National Ag Center
<http://www.epa.gov/agriculture>

Mailing address:
EPA R7 STC/Ag Center
300 Minnesota Ave.
Kansas City, KS 66101

Message

From: Galloway, Carol [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EEE9CC5B178D43D8B620D3545E355E75-GALLOWAY, CAROL]
Sent: 3/9/2017 9:09:26 PM
To: Heminway, Seth [Heminway.Seth@epa.gov]; Duffy, Rick [Duffy.Rick@epa.gov]; Segall, Martha [Segall.Martha@epa.gov]
Subject: 35 organizations petition EPA for stronger CAFO program

FYI

Food & Water Watch & 34 other orgs petition:
<http://www.foodandwaterwatch.org/news/dozens-advocacy-groups-challenge-epa-factory-farm-pollution>

Carol Galloway
913-551-5092

Pesticides, Waste and Toxics Branch
Monitoring, Assistance and Media Programs Division
Office of Compliance
CAFO Coordinator
Tribal Pesticides
Worker Safety
Certification and Training
Pollinator Protection

EPA National Ag Center
<http://www.epa.gov/agriculture>

Mailing address:
EPA R7 STC/Ag Center
300 Minnesota Ave.
Kansas City, KS 66101

Message

From: Subramanian, Hema [Subramanian.Hema@epa.gov]
Sent: 10/10/2017 9:49:37 PM
To: Galloway, Carol [Galloway.Carol@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Greenwald, Kathryn [Greenwald.Kathryn@epa.gov]
CC: Shenk, Kelly [shenk.kelly@epa.gov]
Subject: RE: Anyone available to start the next CAFO call?

<!--[if lte mso 15 || CheckWebRef]-->

Subramanian, Hema has shared a OneDrive for Business file with you. To view it, click the link below.

 OECA Presentation for AADG - 9 25 2017 notes version.pptx

<!--[endif]-->

Hi Carol,

Sorry for tangent, but reminded by this string about this week's call... I saw you sent around a revised version of the OECA presentation for the AADG Meeting on 9/27 (attaching here), but I admittedly have not had time to look through it yet (very swamped right now). I have some process questions, so I'm adding Kelly here and taking Nina off:

Ex. 5 Deliberative Process (DP)

---Hema.

Hema Subramanian
Environmental Protection Specialist
U.S. Environmental Protection Agency
Office of Water: Office of Wastewater Management/Water Permits Division/Rural Branch
1200 Pennsylvania Avenue, NW
Mail Code 4203M
Washington, DC 20460
Phone (202) 564-5041
subramanian.hema@epa.gov

From: Galloway, Carol
Sent: Friday, October 06, 2017 2:06 PM
To: Molloy, Jennifer <molloy.jennifer@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>
Subject: FW: Anyone available to start the next CAFO call?

Jenny,

Great!! It's a deal. My leader PIN Ex. 6 Personal Privacy (PP)

I'll check on Quoc's availability. Thanks!

From: Molloy, Jennifer

Sent: Friday, October 06, 2017 12:50 PM

To: Galloway, Carol <Galloway.Carol@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>

Subject: RE: Anyone available to start the next CAFO call?

I can do it if you like. I could also cover the first 2 topics, although if Quoc or someone from OGC is available that might be better.

Jenny Molloy

U.S. EPA

Water Permits Division

202.564.1939

molloy.jennifer@epa.gov

From: Galloway, Carol

Sent: Friday, October 06, 2017 11:49 AM

To: Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>

Subject: Anyone available to start the next CAFO call?

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- Redaction of NMP info by states – David Rice, R8 (confirmed)
- *Unconfirmed* --Update on the "Agricultural Air Quality Conservation Measures: Reference Guide for Poultry and Livestock Production Systems" – Bill Schrock

Carol Galloway

913-551-5092

Pesticides, Waste and Toxics Branch

Monitoring, Assistance and Media Programs Division

Office of Compliance

CAFO Coordinator

Tribal Pesticides

Worker Safety

Certification and Training

Pollinator Protection

EPA National Ag Center

<http://www.epa.gov/agriculture>

Mailing address:

EPA R7 STC/Ag Center
300 Minnesota Ave.
Kansas City, KS 66101

Message

From: Molloy, Jennifer [molloy.jennifer@epa.gov]
Sent: 10/6/2017 6:01:13 PM
To: Galloway, Carol [Galloway.Carol@epa.gov]; Greenwald, Kathryn [Greenwald.Kathryn@epa.gov]; Subramanian, Hema [Subramanian.Hema@epa.gov]; Bonnelycke, Nina [Bonnelycke.Nina@epa.gov]
Subject: RE: Anyone available to start the next CAFO call?
Attachments: citizens_cafo_cwa_petition.pdf

Carol:

BTW – just in case you want to send around a copy of the Food and Water Watch, et al petition ahead of the call, it's attached.

Jenny Molloy
U.S. EPA
Water Permits Division
202.564.1939
molloy.jennifer@epa.gov

From: Molloy, Jennifer
Sent: Friday, October 06, 2017 1:50 PM
To: Galloway, Carol <Galloway.Carol@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>
Subject: RE: Anyone available to start the next CAFO call?

I can do it if you like. I could also cover the first 2 topics, although if Quoc or someone from OGC is available that might be better.

Jenny Molloy
U.S. EPA
Water Permits Division
202.564.1939
molloy.jennifer@epa.gov

From: Galloway, Carol
Sent: Friday, October 06, 2017 11:49 AM
To: Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>
Subject: Anyone available to start the next CAFO call?

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- Redaction of NMP info by states – David Rice, R8 (confirmed)

- *Unconfirmed --Update on the "Agricultural Air Quality Conservation Measures: Reference Guide for Poultry and Livestock Production Systems" – Bill Schrock*

Carol Galloway
913-551-5092

Pesticides, Waste and Toxics Branch
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EPA National Ag Center
<http://www.epa.gov/agriculture>

Mailing address:
EPA R7 STC/Ag Center
300 Minnesota Ave.
Kansas City, KS 66101

Appointment

From: Galloway, Carol [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EEE9CC5B178D43D8B620D3545E355E75-GALLOWAY, CAROL]
Sent: 10/16/2017 10:44:14 PM
To: Galloway, Carol [Galloway.Carol@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Greenwald, Kathryn [Greenwald.Kathryn@epa.gov]; Buterbaugh, Kristin [buterbaugh.kristin@epa.gov]

Subject: Sorry!! Call number added Recap of Oct CAFO call

Location: **Ex. 6 Personal Privacy (PP)**

Start: 10/18/2017 3:30:00 PM

End: 10/18/2017 4:00:00 PM

Show Time As: Busy

Required Attendees: Molloy, Jennifer; Greenwald, Kathryn; Buterbaugh, Kristin

Jenny, would you update us on:

- FOIA redaction rules
- Petition to revise the CAFO regs
- Air reporting vacatur
- Redaction of NMP info by states

Thanks!

Message

From: Greenwald, Kathryn [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E1ADACDF73EC47D6994490000530580E-KGREENWA]
Sent: 8/30/2017 4:58:17 PM
To: Brennan, Ross [Brennan.Ross@epa.gov]
Subject: RE: Today's meeting with CAFO Petitioners

Calling in is fine as we have back to back meetings (& retirement parties!) today...

From: Brennan, Ross
Sent: Wednesday, August 30, 2017 12:57 PM
To: Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>; Utting, George <Utting.George@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>
Cc: Molloy, Jennifer <molloy.jennifer@epa.gov>
Subject: RE: Today's meeting with CAFO Petitioners

I'll ask DeMara if she can find a room and update the invite accordingly.

Ross Brennan
Acting Chief, Rural Branch
EPA Office of Wastewater Management
(202) 564-3248

From: Greenwald, Kathryn
Sent: Wednesday, August 30, 2017 12:55 PM
To: Brennan, Ross <Brennan.Ross@epa.gov>; Utting, George <Utting.George@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>
Subject: RE: Today's meeting with CAFO Petitioners

I didn't see a conference room noted in the invitation so I assume we're all just calling in.

K

From: Brennan, Ross
Sent: Wednesday, August 30, 2017 12:35 PM
To: Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>; Utting, George <Utting.George@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>
Subject: RE: Today's meeting with CAFO Petitioners

I've just chatted with Kathy and will send her the petition.

Ross Brennan
Acting Chief, Rural Branch
EPA Office of Wastewater Management
(202) 564-3248

From: Greenwald, Kathryn
Sent: Wednesday, August 30, 2017 12:08 PM

To: Brennan, Ross <Brennan.Ross@epa.gov>; Utting, George <Utting.George@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>

Subject: Today's meeting with CAFO Petitioners

Hi Ross, George, & Nina,

My management is asking if there is any other information about this meeting that you can share with us beyond the agenda bullets?

Thanks,
Kathy

Message

From: Kupchan, Simma [Kupchan.Simma@epa.gov]
Sent: 11/19/2020 7:14:10 PM
To: Utting, George [Utting.George@epa.gov]; Bathersfield, Nizanna [Bathersfield.Nizanna@epa.gov]; Zobrist, Marcus [Zobrist.Marcus@epa.gov]
CC: Shriner, Paul [Shriner.Paul@epa.gov]; Greenwald, Kathryn [Greenwald.Kathryn@epa.gov]
Subject: RE: CAFO petitions under review
Attachments: Talking Points for Andrew about CAFO Petitions draft sak.docx

Thanks, George! Just a few last tweaks to the talking points to address some of the concerns you raised in this and an earlier email.

Simma Kupchan
EPA Office of General Counsel
Water Law Office
WJC North Building # 7426Q
202-564-3105

From: Utting, George <Utting.George@epa.gov>
Sent: Thursday, November 19, 2020 1:44 PM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Cc: Shriner, Paul <Shriner.Paul@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>
Subject: CAFO petitions under review

As you may know, EPA received two petitions to revise the CAFO regulations, in 2015 and 2017. We have been asked by Anna Wildeman to take a look at them and develop a response to them. In order to better understand the scope of the petitions and the commitment of resources that would be necessary to respond to them, I am sharing two draft documents. One is a set of talking points for Andrew and the other is an appendix that charts out the issues raised in the petitions.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

I am also attaching copies of the original petitions.

Message

From: Magruder, DeMara [Magruder.Demara@epa.gov]
Sent: 8/30/2017 5:11:31 PM
To: Utting, George [Utting.George@epa.gov]; Brennan, Ross [Brennan.Ross@epa.gov]; Greenwald, Kathryn [Greenwald.Kathryn@epa.gov]; Bonnelycke, Nina [Bonnelycke.Nina@epa.gov]
CC: Molloy, Jennifer [molloy.jennifer@epa.gov]; Nagle, Deborah [Nagle.Deborah@epa.gov]
Subject: RE: Today's meeting with CAFO Petitioners

You're most welcome!

DeMara

From: Utting, George
Sent: Wednesday, August 30, 2017 1:06 PM
To: Brennan, Ross <Brennan.Ross@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>
Cc: Molloy, Jennifer <molloy.jennifer@epa.gov>; Magruder, DeMara <Magruder.Demara@epa.gov>; Nagle, Deborah <Nagle.Deborah@epa.gov>
Subject: RE: Today's meeting with CAFO Petitioners

DeMara just updated the invite to add a room. 5349 East.

Thanks, DeMara!!

George Utting
Water Permits Division (MC-4203M)
U.S. EPA, 1200 Pennsylvania Avenue, NW,
Washington, DC 20460-0001
(202) 564-0744 / Fax (202) 564-6384

From: Brennan, Ross
Sent: Wednesday, August 30, 2017 12:57 PM
To: Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>; Utting, George <Utting.George@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>
Cc: Molloy, Jennifer <molloy.jennifer@epa.gov>
Subject: RE: Today's meeting with CAFO Petitioners

I'll ask DeMara if she can find a room and update the invite accordingly.

Ross Brennan
Acting Chief, Rural Branch
EPA Office of Wastewater Management
(202) 564-3248

From: Greenwald, Kathryn
Sent: Wednesday, August 30, 2017 12:55 PM
To: Brennan, Ross <Brennan.Ross@epa.gov>; Utting, George <Utting.George@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>
Subject: RE: Today's meeting with CAFO Petitioners

I didn't see a conference room noted in the invitation so I assume we're all just calling in.

K

From: Brennan, Ross

Sent: Wednesday, August 30, 2017 12:35 PM

To: Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>; Utting, George <Utting.George@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>

Subject: RE: Today's meeting with CAFO Petitioners

I've just chatted with Kathy and will send her the petition.

Ross Brennan

Acting Chief, Rural Branch

EPA Office of Wastewater Management

(202) 564-3248

From: Greenwald, Kathryn

Sent: Wednesday, August 30, 2017 12:08 PM

To: Brennan, Ross <Brennan.Ross@epa.gov>; Utting, George <Utting.George@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>

Subject: Today's meeting with CAFO Petitioners

Hi Ross, George, & Nina,

My management is asking if there is any other information about this meeting that you can share with us beyond the agenda bullets?

Thanks,
Kathy

Appointment

From: Galloway, Carol [Galloway.Carol@epa.gov]
Sent: 10/11/2017 11:51:59 PM
To: Adams, Margery [adams.margery@epa.gov]; Arvizu, Christy [Arvizu.Christy@epa.gov]; Atkinson, Benjamin [atkinson.ben@epa.gov]; Bahr, Ryan [bahr.ryan@epa.gov]; Blanco-Gonzalez, Joel [Blanco-Gonzalez.Joel@epa.gov]; Boisclair, Diane [boisclair.diane@epa.gov]; Bonnelycke, Nina [Bonnelycke.Nina@epa.gov]; Breedlove, Dan [Breedlove.Dan@epa.gov]; Bukhari, Samir [Bukhari.Samir@epa.gov]; Burdett, Cheryl [burdett.cheryl@epa.gov]; Bush, William [Bush.William@epa.gov]; Campbell, Gwen [Campbell.Gwen@epa.gov]; Chang-Vaughan, Ellen [Chang-Vaughan.Ellen@epa.gov]; Chase, Felicia [chase.felicia@epa.gov]; Coats, Andrea [Coats.Andrea@epa.gov]; Cozad, David [Cozad.David@epa.gov]; Dart, Denny [Dart.Denny@epa.gov]; Davies, Lauris [Davies.Lauris@epa.gov]; Drelich, David [Drelich.David@epa.gov]; Duchovnay, Andrew [Duchovnay.Andrew@epa.gov]; Gable, Kelly [Gable.Kelly@epa.gov]; Greenberg, Ken [Greenberg.Ken@epa.gov]; Greenwald, Kathryn [Greenwald.Kathryn@epa.gov]; Hamera, Donald [Hamera.Don@epa.gov]; Heinemann, Kristina [Heinemann.Kristina@epa.gov]; Herbert, Rusty [Herbert.Rusty@epa.gov]; Hom, Michael [Hom.Michael@epa.gov]; Huffman, Diane [Huffman.Diane@epa.gov]; Jackson, Julia [Jackson.Julia@epa.gov]; Jann, Stephen [jann.stephen@epa.gov]; Joe, Don [Joe.Don@epa.gov]; Schefski, Melissa [Schefski.Melissa@epa.gov]; Kenknight, Jeff [Kenknight.Jeff@epa.gov]; Kermish, Laurie [Kermish.Laurie@epa.gov]; Kroening, Peg [Kroening.Margaret@epa.gov]; Kuefler, Patrick [kuefler.patrick@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]; Kwok, Rose [Kwok.Rose@epa.gov]; Lane, Willie [Lane.Willie@epa.gov]; Lister, Chris [Lister.Chris@epa.gov]; Livingston, Peggy [Livingston.Peggy@epa.gov]; Lopez, Jaime [Lopez.Jaime@epa.gov]; Lukowich, Michael [lukowich.michael@epa.gov]; Massey, Michael [Massey.Michael@epa.gov]; McDonald, Scott [mcdonald.scott@epa.gov]; Mikalian, Charles [mikalian.charles@epa.gov]; Mitschele, Becky [Mitschele.Becky@epa.gov]; Modigliani, Justine [Modigliani.Justine@epa.gov]; Moody, Jonathan [moody.jonathan@epa.gov]; Moores, Steven [Moores.Steven@epa.gov]; Morgan, James [Morgan.James@epa.gov]; Mortensen, Ginah [mortensen.ginah@epa.gov]; Ogle, Kimberly [Ogle.Kimberly@epa.gov]; Oviedo, Luis [oviedo.luis@epa.gov]; Peak, Nicholas [Peak.Nicholas@epa.gov]; Plymale, Chris [Plymale.Christopher@epa.gov]; Pollard, Stephen [Pollard.Stephen@epa.gov]; Porter, Donna [Porter.Donna@epa.gov]; Potokar, Steven [Potokar.Steven@epa.gov]; Rogers, Joan [rogers.joan@epa.gov]; Sampath, Sam [Sampath.Sam@epa.gov]; Schwer, Don [Schwer.Don@epa.gov]; Segall, Martha [Segall.Martha@epa.gov]; Senkayi, Abu [Senkayi.Abu@epa.gov]; Silver, Wendy [Silver.Wendy@epa.gov]; Sipe, Diane [Sipe.Diane@epa.gov]; Socha, Julianne [socha.julianne@epa.gov]; Stokely, Peter [Stokely.Peter@epa.gov]; Sullivan, Tim [Sullivan.Tim@epa.gov]; Sutin, Elyana [Sutin.Elyana@epa.gov]; Theis, Joseph [Theis.Joseph@epa.gov]; Thomas, Lee [Thomas.Lee@epa.gov]; Thompson, Robert [thompson.robert@epa.gov]; Thuot, Lisa [Thuot.Lisa@epa.gov]; Tipton, Lantz [tipton.lantz@epa.gov]; Urban, Trevor [Urban.Trevor@epa.gov]; Utting, George [Utting.George@epa.gov]; Vanlerberghe, Daren [Vanlerberghe.Daren@epa.gov]; Vantil, Barbara [vantil.barbara@epa.gov]; Vuilleumier, Kevin [vuilleumier.kevin@epa.gov]; Weiler, Eaton [weiler.eaton@epa.gov]; Whitson, Amelia [Whitson.Amelia@epa.gov]; Williams, Nancy [Williams.Nancy@epa.gov]; Wills, Carl [Wills.Carl@epa.gov]; Witt, Richard [Witt.Richard@epa.gov]; Zolandz, Mark [Zolandz.Mark@epa.gov]; Boeglin, Michael [Boeglin.Michael@epa.gov]; Vezner, Kris [vezner.kris@epa.gov]; Ibarra, Juan [Ibarra.Juan@epa.gov]; Draper, Seth [Draper.Seth@epa.gov]; Anderson, Kate [Anderson.Kate@epa.gov]; Wetherington, Michele [Wetherington.Michele@epa.gov]; Savino, Kathleen [Savino.Kathleen@epa.gov]; Chan, Janice [Chan.Janice@epa.gov]; Goldstein, Jessica [goldstein.jessica@epa.gov]; Cooper, WilliamF [Cooper.WilliamF@epa.gov]; Quigley, Heather [Quigley.Heather@epa.gov]; Mills, Clarissa [mills.clarissa@epa.gov]; Rise, David [rise.david@epa.gov]; Saporita, Chris [Saporita.Chris@epa.gov]; Smith, Brittany [Smith.Brittany@epa.gov]; Arcaya, Alyssa [arcaya.alyssa@epa.gov]; Buterbaugh, Kristin [Buterbaugh.Kristin@epa.gov]; Nagrani, Kavita [Nagrani.Kavita@epa.gov]; Nguyen, Quoc [Nguyen.Quoc@epa.gov]
CC: Ordonez, Efren [Ordonez.Efren@epa.gov]; Henson, Tucker [Henson.Tucker@epa.gov]; Murdock, Russell [Murdock.Russell@epa.gov]; Campbell, Rich [Campbell.Rich@epa.gov]; Subramanian, Hema [Subramanian.Hema@epa.gov]; Ziobro, Joseph [Ziobro.Joseph@epa.gov]; Gholson, Greg [Gholson.Greg@epa.gov]; Bandrowicz, Toni [bandrowicz.toni@epa.gov]; Grubb, Christopher [Grubb.Christopher@epa.gov]; Roberts, Connie [Roberts.Connie@epa.gov]; Jones, Kristin [jones.kristin@epa.gov]; Hodaj, Andi [hodaj.andi@epa.gov]; Kostek, Daniel [kostek.daniel@epa.gov]; Johnston, Carey [Johnston.Carey@epa.gov]; Yourish, Jesse [yourish.jesse@epa.gov]; Gioffre, Patricia [Gioffre.Patricia@epa.gov]; Nina Bonnelycke [nbonnelycke@msn.com]; Clark, Amy [Clark.Amy@epa.gov]; Juarez, Paul [Juarez.Paul@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Smith, DavidW [Smith.DavidW@epa.gov]; O'Lone, Dan [Olone.Dan@epa.gov]; Armor, Suzanne [Armor.Suzanne@epa.gov]; Spejewski, Andrew [Spejewski.Andrew@epa.gov]; Howard, MarkW [Howard.MarkW@epa.gov]; Tinger, John [Tinger.John@epa.gov]; Colletti, John [colletti.john@epa.gov]; Hamilton, Denise [Hamilton.Denise@epa.gov]; Houlihan, Damien [houlihan.damien@epa.gov]; Rosenberg, Alex [Rosenberg.Alex@epa.gov]; Abrams, Nancy

[Abrams.Nancy@epa.gov]; Brennan, Ross [Brennan.Ross@epa.gov]; Cunningham, Caitlin [cunningham.caitlin@epa.gov]; WEISS, MICHAEL [weiss.michael@epa.gov]; Perez, Daniel [Perez.Daniel@epa.gov]; Hayes, Mark [hayes.mark@epa.gov]

Subject: Agenda added -- Monthly CAFO Program & Compliance Coordinators' Call 2:00 - 3:30 Eastern

Location: **Ex. 6 Personal Privacy (PP)**

Start: 10/12/2017 6:00:00 PM

End: 10/12/2017 7:30:00 PM

Show Time As: Tentative

Recurrence: Monthly

the second Thursday of every 1 month(s) from 1:00 PM to 2:30 PM

Required Attendees: Adams, Margery; Arvizu, Christy; Atkinson, Benjamin; Bahr, Ryan; Blanco-Gonzalez, Joel; Boisclair, Diane; Bonnelycke, Nina; Breedlove, Dan; Bukhari, Samir; Burdett, Cheryl; Bush, William; Campbell, Gwen; Chang-Vaughan, Ellen; Chase, Felicia; Coats, Andrea; Cozad, David; Dart, Denny; Davies, Lauris; Drelich, David; Duchovnay, Andrew; Gable, Kelly; Greenberg, Ken; Greenwald, Kathryn; Hamera, Donald; Heinemann, Kristina; Herbert, Rusty; Hom, Michael; Huffman, Diane; Jackson, Julia; Jann, Stephen; Joe, Don; Schefski, Melissa; Kenknight, Jeff; Kermish, Laurie; Kroening, Peg; Kuefler, Patrick; Kupchan, Simma; Kwok, Rose; Lane, Willie; Lister, Chris; Livingston, Peggy; Lopez, Jaime; Lukowich, Michael; Massey, Michael; McDonald, Scott; Mikalian, Charles; Mitschele, Becky; Modigliani, Justine; Moody, Jonathan; Moores, Steven; Morgan, James; Mortensen, Ginah; Ogle, Kimberly; Oviedo, Luis; Peak, Nicholas; Plymale, Chris; Pollard, Stephen; Porter, Donna; Potokar, Steven; Rogers, Joan; Sampath, Sam; Schwer, Don; Segall, Martha; Senkayi, Abu; Silver, Wendy; Sipe, Diane; Socha, Julianne; Stokely, Peter; Sullivan, Tim; Sutin, Elyana; Theis, Joseph; Thomas, Lee; Thompson, Robert; Thuot, Lisa; Tipton, Lantz; Urban, Trevor; Utting, George; Vanlerberghe, Daren; Vantil, Barbara; Vuilleumier, Kevin; Weiler, Eaton; Whitson, Amelia; Williams, Nancy; Wills, Carl; Witt, Richard; Zolandz, Mark; Boeglin, Michael; Vezner, Kris; Ibarra, Juan; Draper, Seth; Anderson, Kate; Wetherington, Michele; Savino, Kathleen; Chan, Janice; Goldstein, Jessica; Cooper, WilliamF; Quigley, Heather; Mills, Clarissa; Rise, David; Saporita, Chris; Smith, Brittany; Arcaya, alyssa; Buterbaugh, Kristin; Nagrani, Kavita; nguyen.quoc@epa.gov

Optional Attendees: Ordonez, Efren; Henson, Tucker; Murdock, Russell; Campbell, Rich; Subramanian, Hema; Ziobro, Joseph; Gholson, Greg; Bandrowicz, Toni; Grubb, Christopher; Roberts, Connie; Jones, Kristin; Hodaj, Andi; Kostek, Daniel; Johnston, Carey; Yourish, Jesse; Gioffre, Patricia; Nina Bonnelycke; Clark, Amy; Juarez, Paul; Molloy, Jennifer; Smith, DavidW; O'Lone, Dan; Armor, Suzanne; Spejewski, Andrew; Howard, MarkW; Tinger, John; Colletti, John; Denise Hamilton; Houlihan, Damien; Rosenberg, Alex; Abrams, Nancy; Brennan, Ross; Cunningham, Caitlin; WEISS, MICHAEL; Perez, Daniel; Hayes, Mark

Thanks to Jenny Molloy for moderating the call this week!

Agenda items:

Roll Call

Discussion Topics:

- FOIA redaction rules – Quoc Nguyen, OGC
- Petition to revise the CAFO regs – Jenny Molloy, OWM
- Air reporting vacatur – Patty Gioffre, Acting Deputy Division Director, Regulations Implementation Division, OEM
- Redaction of NMP info by states – David Rice, R8

HQ updates

Regional updates

Message

From: Utting, George [Utting.George@epa.gov]
Sent: 11/19/2020 10:16:07 PM
To: Greenwald, Kathryn [Greenwald.Kathryn@epa.gov]
Subject: RE: CAFO petitions under review

Thanks, Kathy. No worries. Will let you know if anything comes of this, for sure.

From: Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>
Sent: Thursday, November 19, 2020 4:55 PM
To: Utting, George <Utting.George@epa.gov>
Subject: RE: CAFO petitions under review

Hi George,
Thanks for sharing your summary. I have not been involved in the 2015 and 2017 petitions, to date, so I don't have any comments at this time.

Kathy

From: Utting, George <Utting.George@epa.gov>
Sent: Thursday, November 19, 2020 1:44 PM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Cc: Shriner, Paul <Shriner.Paul@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>
Subject: CAFO petitions under review

As you may know, EPA received two petitions to revise the CAFO regulations, in 2015 and 2017. We have been asked by Anna Wildeman to take a look at them and develop a response to them. In order to better understand the scope of the petitions and the commitment of resources that would be necessary to respond to them, I am sharing two draft documents. One is a set of talking points for Andrew and the other is an appendix that charts out the issues raised in the petitions.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Message

From: Utting, George [Utting.George@epa.gov]
Sent: 11/19/2020 8:23:53 PM
To: Kupchan, Simma [Kupchan.Simma@epa.gov]; Bathersfield, Nizanna [Bathersfield.Nizanna@epa.gov]; Zobrist, Marcus [Zobrist.Marcus@epa.gov]
CC: Shriner, Paul [Shriner.Paul@epa.gov]; Greenwald, Kathryn [Greenwald.Kathryn@epa.gov]
Subject: RE: CAFO petitions under review

Thanks, Simma. I will accept all of those. I appreciate you cleaning up the document!

From: Kupchan, Simma <Kupchan.Simma@epa.gov>
Sent: Thursday, November 19, 2020 2:14 PM
To: Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Cc: Shriner, Paul <Shriner.Paul@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>
Subject: RE: CAFO petitions under review

Thanks, George! Just a few last tweaks to the talking points to address some of the concerns you raised in this and an earlier email.

Simma Kupchan
EPA Office of General Counsel
Water Law Office
WJC North Building # 7426Q
202-564-3105

From: Utting, George <Utting.George@epa.gov>
Sent: Thursday, November 19, 2020 1:44 PM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Cc: Shriner, Paul <Shriner.Paul@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>
Subject: CAFO petitions under review

As you may know, EPA received two petitions to revise the CAFO regulations, in 2015 and 2017. We have been asked by Anna Wildeman to take a look at them and develop a response to them. In order to better understand the scope of the petitions and the commitment of resources that would be necessary to respond to them, I am sharing two draft documents. One is a set of talking points for Andrew and the other is an appendix that charts out the issues raised in the petitions.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Message

From: Segall, Martha [Segall.Martha@epa.gov]
Sent: 3/10/2017 5:28:54 PM
To: Greenwald, Kathryn [Greenwald.Kathryn@epa.gov]
Subject: RE: Bring your agenda topics -- Monthly CAFO Program & Compliance Coordinators' Call 2:00 - 3:30 Eastern

Interesting--Thanks for sharing! Great to see you last evening!

~~~~~  
Martha Segall, Deputy Director  
Monitoring, Assistance and Media Programs Division  
Office of Compliance  
Environmental Protection Agency  
Ph: 202-564-0723  
~~~~~

From: Greenwald, Kathryn
Sent: Friday, March 10, 2017 10:24 AM
To: Theis, Joseph <Theis.Joseph@epa.gov>; Bahk, Benjamin <Bahk.Benjamin@epa.gov>; Segall, Martha <Segall.Martha@epa.gov>; Roose, Rebecca <Roose.Rebecca@epa.gov>
Subject: FW: Bring your agenda topics -- Monthly CAFO Program & Compliance Coordinators' Call 2:00 - 3:30 Eastern

FYI, the new enviro petition re: EPA CAFO regs that I mentioned.

K

Food & Water Watch & 34 other orgs petition:
<http://www.foodandwaterwatch.org/news/dozens-advocacy-groups-challenge-epa-factory-farm-pollution>

Appointment

From: Kupchan, Simma [Kupchan.Simma@epa.gov]
Sent: 3/14/2017 4:49:28 PM
To: Kupchan, Simma [Kupchan.Simma@epa.gov]; Levine, MaryEllen [levine.maryellen@epa.gov]; Curtin, James [curtin.james@epa.gov]; Nagle, Deborah [Nagle.Deborah@epa.gov]; Abrams, Nancy [Abrams.Nancy@epa.gov]; Utting, George [Utting.George@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Duchovnay, Andrew [Duchovnay.Andrew@epa.gov]; Shenk, Kelly [shenk.kelly@epa.gov]; McGuigan, David [McGuigan.David@epa.gov]; Day, Christopher [Day.Christopher@epa.gov]; Havard, James [Havard.James@epa.gov]; Lewicki, Chris [Lewicki.Chris@epa.gov]; Pollins, Mark [Pollins.Mark@epa.gov]; Theis, Joseph [Theis.Joseph@epa.gov]; Bahk, Benjamin [Bahk.Benjamin@epa.gov]; Gable, Kelly [Gable.Kelly@epa.gov]; Buterbaugh, Kristin [Buterbaugh.Kristin@epa.gov]; Greenwald, Kathryn [Greenwald.Kathryn@epa.gov]; Shriner, Paul [Shriner.Paul@epa.gov]; Matuszko, Jan [Matuszko.Jan@epa.gov]
CC: Trulear, Brian [Trulear.Brian@epa.gov]; Zolandz, Mark [Zolandz.Mark@epa.gov]
Subject: CAFO Rulemaking Considerations
Location: DCRoomARN6013/DC-Ariel-Rios-OGC; DCConfARN-8662993188-C2025645476/WLO-Conf-Line/DC-Ariel-Rios-OGC
Start: 3/22/2017 8:00:00 PM
End: 3/22/2017 9:00:00 PM
Show Time As: Busy

Required Attendees: Kupchan, Simma; Levine, MaryEllen; Curtin, James; Nagle, Deborah; Abrams, Nancy; Utting, George; Molloy, Jennifer; Duchovnay, Andrew; Shenk, Kelly; McGuigan, David; Day, Christopher; Havard, James; Lewicki, Chris; Pollins, Mark; Theis, Joseph; Bahk, Benjamin; Gable, Kelly; Buterbaugh, Kristin; Greenwald, Kathryn; Paul Shriner; Jan Matuszko
Optional Attendees: Trulear, Brian; Zolandz, Mark

Ex. 5 AC/AWP/DP



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR - 3 2017

OFFICE OF WATER

Tarah Heinzen
Food & Water Watch
1616 P Street, NW, Suite 300
Washington, DC 20036

Dear Ms. Heinzen,

The U.S. Environmental Protection Agency is in receipt of your petition to revise Clean Water Act regulations for concentrated animal feeding operations. We appreciate and share your concerns about protecting the integrity of the Nation's waters. We would welcome a conversation about the concerns you have expressed in your petition. Please contact Deborah Nagle, Director of the Water Permits Division at (202)564-1185 or email her at nagle.deborah@epa.gov, to arrange a meeting.

Sincerely,

A handwritten signature in black ink, which appears to read "Michael Shapiro".

Michael H. Shapiro
Acting Assistant Administrator

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460
OFFICE OF WATER
400 M STREET, NW
WASHINGTON, DC 20460
TEL: (202) 564-1185
FAX: (202) 564-1186
WWW.EPA.GOV

Message

From: Kloss, Christopher [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B69B73BDBC54D8E95C616B40B8B6F1E-KLOSS, CHRISTOPHER]
Sent: 11/10/2020 4:37:44 PM
To: Sawyers, Andrew [Sawyers.Andrew@epa.gov]; Miller, Wynne [Miller.Wynne@epa.gov]
CC: Lopez-Carbo, Maria [Lopez-Carbo.Maria@epa.gov]
Subject: FW: Streamlined Response for Anna- CAFO Petitions before OW
Attachments: Summary - FWW Petition (002).docx

Andrew,

You may not need this now, but Maria tracked down our feedback to Anna from earlier this year. Talk to you in a bit.

From: Sawyers, Andrew <Sawyers.Andrew@epa.gov>
Sent: Tuesday, July 21, 2020 5:54 PM
To: Wildeman, Anna <wildeman.anna@epa.gov>
Cc: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>
Subject: FW: Streamlined Response for Anna- CAFO Petitions before OW

Hello Anna:

Regarding the 2017 FWW petition:

- The EPA team met with FWW several times regarding this petition. Attached please find a summary of issues raised by FWW and our responses at the time. The petition is still pending.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Regarding the Buffalo River Alliance:

Ex. 5 Deliberative Process (DP)

The *withdrawal petition* page is owned and updated by OWM. Because the two petitions listed below are not withdrawal petitions, they were not uploaded to the OWM withdrawal petition website. The regulatory petition page listed below <https://www.epa.gov/aboutepa/petitions-office-water> belongs to OPA.

From: Wildeman, Anna <wildeman.anna@epa.gov>
Sent: Tuesday, July 21, 2020 9:26 AM
To: Sawyers, Andrew <Sawyers.Andrew@epa.gov>
Cc: Aguirre, Janita <Aguirre.Janita@epa.gov>
Subject: FW: CAFO Petitions before OW

Andrew, can you find out for me if EPA responded to these two petitions? If yes, can you please send me our responses. If no, can you let me know if something is in process? Also see Tom's question below on the FWW petition—should it be on our website?

Thanks,
Anna

From: Thomas Hebert <tom.hebert@bayardridge.com>

Sent: Tuesday, July 21, 2020 9:20 AM

To: Wildeman, Anna <wildeman.anna@epa.gov>

Subject: CAFO Petitions before OW

Hi Anna,

Below are two petitions. The first by Food and Water Watch et al (2017) is referenced in this story on their website: <https://www.foodandwaterwatch.org/news/dozens-advocacy-groups-challenge-epa-factory-farm-pollution>. If you Google the topic you will find several versions of this same story. To my great surprise, the 2017 petition is not listed on the OW website. (<https://www.epa.gov/aboutepa/petitions-office-water>). Food and Water watch says they filed it, there are dozens of reviews in the legal trade press about it, but it is not on your website? I can find no reference in the press, etc. to this 2017 petition being "withdrawn." I am puzzled.

The second one (2015) is on your website.

I will be interested in hearing what you find out about both of these.

1. <https://buffaloriveralliance.org/resources/Pictures/citizens%20cafo%20cwa%20petition.pdf>
2. https://www.epa.gov/sites/production/files/2016-09/documents/cwa_cafo_ebrotzman_9_2015.pdf

Best!

Tom

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Appendix A: 2017 Food & Water Watch Petitions

Ex. 5 Deliberative Process (DP)

Chart detailing the Issues raised in the 2017 Food & Water Watch Petition:

Major issues raised in petition	Additional points raised in petition	Lead Office
I. EPA'S CAFO REGULATIONS MUST ENSURE THAT ALL DISCHARGING CAFOS OBTAIN NPDES PERMITS		
1. EPA should establish an evidentiary presumption that certain CAFOs discharge and are either subject to NPDES permitting or must rebut the presumption by demonstrating they do not discharge.	<div>- EPA hHas cClear Authority to eEstablish a pPresumption that cCertain CAFOs dDischarge</div> <div>- EPA hHas sSufficient evidence to sSupport a pPresumption that CAFOs with cCertain Ccharacteristics Discharge</div> <div>-- Land application (dry weather discharges)</div> <div>-- Production area</div>	OWM OGC OECA

Ex. 5 Deliberative Process (DP)

Major issues raised in petition	Additional points raised in petition	Lead Office
2. EPA should revise its interpretation of the agricultural stormwater exemption such that no discharges resulting from CAFO activities are exempt as non-point source pollution.	<ul style="list-style-type: none"> - EPA's interpretation of the Ag SW exemption inadequate - EPA has clear Authority to revise its interpretation - The language and history of the statute 	OGC OWM
3. EPA must ensure that integrators who meet the CWA definition of owner or operator are co-permitted with contract producers, as the statute has always required.	EPA has already established that many of these corporate entities are CWA operators, but it must now clarify by regulation which entities meet the definition of an operator and are required to obtain NPDES permits.	OWM OECA
4. EPA should revise certain definitions in the CAFO regulations.	A. "Production Area" -- "ensure that all areas associated with the CAFO facility are subject to the CAFO ELGs" -- and that discharges from the production area are not eligible for the ag stormwater exemption.	OWM OGC OST
	B. Revise or Eliminate the "Medium CAFO" Category -- three-tiered system exempts a large number of operations approaching the Large CAFO size threshold	OWM OGC OECA OST

Ex. 5 Deliberative Process (DP)

Major issues raised in petition	Additional points raised in petition	Lead Office
	C. EPA Should Impose Meaningful Limits on States' Discretion in Designating CAFOs	OWM OGC OECA
II. EPA MUST STRENGTHEN CAFO NPDES PERMITS TO ADEQUATELY PROTECT WATER QUALITY		
1. EPA should revise the requirements applicable to all CAFOs to ensure compliance with the CWA and permit terms.	A. EPA must require water quality monitoring in CAFO NPDES permits.	OWM OGC OST OECA
	B. EPA Must Strengthen Annual Reporting Requirements	OWM OGC

Ex. 5 Deliberative Process (DP)

Major issues raised in petition	Additional points raised in petition	Lead Office
2. EPA should revise the CAFO ELGs to address additional CAFO pollutants of concern, prohibit practices known to harm water quality.		
	A. The CAFO ELGs Should Apply to All CAFOs.	OST OGC
	B. EPA Must Establish Application Disclosure requirements, BAT and NSPS Limits, and Monitoring Requirements for Additional CAFO Pollutants of Concern – extend application requirements, ELGs, and permit limits to include other pollutants of concern	OST OWM OGC
	C. The CAFO ELGs’ NMP Requirements Must	OST OGC

Ex. 5 Deliberative Process (DP)

Major issues raised in petition	Additional points raised in petition	Lead Office	Ex. 5 Deliberative Process (DP)
	Prioritize Protecting Water Quality -- EPA must establish stronger federal requirements to minimize harmful runoff	OWM	
	D. Technical Standards Must Prohibit Practices Known to Harm Water Quality – (1) Manure Storage in Unlined and Inadequately Lined Lagoons and Impoundments (2) Ventilation of Pollutants near Waters or Conduits to Waters of the U.S. -- air deposition (3) Application on Frozen, Saturated, or Snow-Covered Ground -- EPA guidance inadequate	OST OGC OWM OECA	

Major issues raised in petition	Additional points raised in petition	Lead Office	Ex. 5 Deliberative Process (DP)
	<div>(4) Spray Irrigation of Manure</div> <div>(5) Manure Application on Steep Slopes</div> <div>(6) Manure Storage in Exposed Stockpiles</div>		
	E. State Permitting Programs Cannot Effectively Fill the Gaps Left by the Absence of Strong National Standards	OST OGC OWM OECA	

Major issues raised in petition	Additional points raised in petition	Lead Office	Ex. 5 Deliberative Process (DP)
	F. EPA's Assumptions Regarding the Frequency of Storm Events Are No Longer Accurate	OST OGC OECA	

Ex. 5 Deliberative Process (DP)

Message

From: Lopez-Carbo, Maria [Lopez-Carbo.Maria@epa.gov]
Sent: 4/1/2021 1:29:14 PM
To: Halter, Emily [Halter.Emily@epa.gov]
CC: Kloss, Christopher [Kloss.Christopher@epa.gov]
Subject: RE: draft CAFO briefing materials

Thank you. I'm on a few fire drills this morning but this something I'm planning to work on today.

From: Halter, Emily <Halter.Emily@epa.gov>
Sent: Thursday, April 1, 2021 8:51 AM
To: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>
Cc: Kloss, Christopher <Kloss.Christopher@epa.gov>
Subject: FW: draft CAFO briefing materials

Maria,
He is the latest draft that George sent last night. I haven't looked at it yet. See below.

From: Utting, George <Utting.George@epa.gov>
Sent: Wednesday, March 31, 2021 5:40 PM
To: Molloy, Jennifer <molloy.jennifer@epa.gov>; Kloss, Christopher <Kloss.Christopher@epa.gov>
Cc: Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Durant, Chelsea <durant.chelsea@epa.gov>; Halter, Emily <Halter.Emily@epa.gov>
Subject: RE: draft CAFO briefing materials

Ex. 5 Deliberative Process (DP)

Let me know if you need more info.

GU

From: Molloy, Jennifer <molloy.jennifer@epa.gov>

Sent: Tuesday, March 30, 2021 6:13 PM

To: Kloss, Christopher <Kloss.Christopher@epa.gov>

Cc: Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Durant, Chelsea <durant.chelsea@epa.gov>; Utting, George <Utting.George@epa.gov>; Halter, Emily <Halter.Emily@epa.gov>

Subject: draft CAFO briefing materials

Chris:

Here is the draft CAFO briefing along with a supplemental ppt. We're still working out a few of the kinks since George is out today and Marcus was out all afternoon. However, hopefully there's enough substance here for you to review and comment.

<https://teams.microsoft.com/#/files/Branch%20Active%20Projects?threadId=19%3A968ac5537bff453585ba69871d8720cd%40thread.skype&ctx=channel&context=CAFO%2520Briefing&rootfolder=%252Fsites%252FWaterPermitsDivision-IO%252FShared%2520Documents%252FBranch%2520Active%2520Projects%252FCAFO%2520Briefing>

Thanks, Jenny

Jenny Molloy

U.S. Environmental Protection Agency

Water Permits Division

Ex. 6 Personal Privacy (PP)

Message

From: Zobrist, Marcus [Zobrist.Marcus@epa.gov]
Sent: 12/11/2020 2:55:56 PM
To: Kloss, Christopher [Kloss.Christopher@epa.gov]; Lopez-Carbo, Maria [Lopez-Carbo.Maria@epa.gov]
CC: Utting, George [Utting.George@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]
Subject: draft not to Anna providing the summary of issues in the CAFO petitions
Attachments: Appendix A for Petitions to Revise CAFO Regulations final.docx

Chris, Maria,

Attached is the table that describes the CAFO petitions, and a short note below. George developed the first versions of the table, which was reviewed by staff in OST and OGC (Simma), Jenny and George then shortened and clarified it further.

Also below is a short description that could be provided in an email transmitting the Table to Anna.

Anna,

Per your request, the attached the table in Appendix A is intended to be a reference guide to the numerous complex issues presented in the Food & Water Watch petition, which is one of two petitions seeking revisions to the NPDES regulations and ELGs that address discharges from CAFOs (the petition filed in 2017 by F&WW and a coalition of other environmental petitioners, and

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

The table provides a summary of each of the issues presented in the F&WW petition, the offices (OGC, OST, OWM, OECA) most likely to play a key role in the response, some regulatory context, and some other considerations that would factor into a response.

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Message

From: Utting, George [Utting.George@epa.gov]
Sent: 5/5/2020 1:04:19 PM
To: Zobrist, Marcus [Zobrist.Marcus@epa.gov]
CC: Molloy, Jennifer [molloy.jennifer@epa.gov]; Lopez-Carbo, Maria [Lopez-Carbo.Maria@epa.gov]; Kloss, Christopher [Kloss.Christopher@epa.gov]
Subject: RE: need TPs for Administrator by 11 a.m.
Attachments: Summary - FWW Petition 2018 summary.docx

Nope. Deleted it (and corrected spelling of "summary" in document name).

From: Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Sent: Tuesday, May 05, 2020 9:01 AM
To: Utting, George <Utting.George@epa.gov>
Cc: Molloy, Jennifer <molloy.jennifer@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Kloss, Christopher <Kloss.Christopher@epa.gov>
Subject: RE: need TPs for Administrator by 11 a.m.

George,

Thank you. Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

From: Utting, George <Utting.George@epa.gov>
Sent: Tuesday, May 05, 2020 8:44 AM
To: Molloy, Jennifer <molloy.jennifer@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Kloss, Christopher <Kloss.Christopher@epa.gov>
Subject: RE: need TPs for Administrator by 11 a.m.

I have cleaned up the bullets a bit to make them a little clearer and

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Let me know if you have any questions about the bullets.

From: Molloy, Jennifer <molloy.jennifer@epa.gov>
Sent: Monday, May 04, 2020 3:22 PM
To: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Cc: Utting, George <Utting.George@epa.gov>
Subject: RE: need TPs for Administrator by 11 a.m.

Here they are. George compiled the summary, probably almost 2 years ago.

Jenny Molloy
U.S. EPA
Water Permits Division
202.564.1939, while in the office

Ex. 6 Personal Privacy (PP)

molloy.jennifer@epa.gov

From: Lopez-Carbo, Maria
Sent: Monday, May 4, 2020 3:18 PM

To: Molloy, Jennifer <molloy.jennifer@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>

Subject: RE: need TPs for Administrator by 11 a.m.

Thanks Jenny for the heads up.

Sally mentioned this during her transition meeting for us to follow up on.

Do you mind sharing the documents that you shared with Mary below? They dropped off the email chain.

Thanks

Maria

From: Molloy, Jennifer <molloy.jennifer@epa.gov>

Sent: Monday, May 4, 2020 12:00 PM

To: Schollhamer, Mary <Schollhamer.Mary@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>

Cc: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>

Subject: RE: need TPs for Administrator by 11 a.m.

Ex. 5 Deliberative Process (DP)

Jenny Molloy

U.S. EPA

Water Permits Division

202.564.1939, while in the office

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molloy.jennifer@epa.gov

From: Schollhamer, Mary

Sent: Monday, May 4, 2020 11:56 AM

To: Molloy, Jennifer <molloy.jennifer@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>

Subject: RE: need TPs for Administrator by 11 a.m.

Thanks! This is very helpful. I'll try to figure out why the Administrator wants to talk about this. But, do we have any talking points that we can share publicly? If not, I'll see if they're still needed.

Mary G Schollhamer

Communications Director

Office of Wastewater Management

U.S. Environmental Protection Agency

Office: 202-564-5759

Ex. 6 Personal Privacy (PP)

schollhamer.mary@epa.gov

Office of Wastewater Management: Solutions for Clean Water

From: Molloy, Jennifer <molloy.jennifer@epa.gov>

Sent: Monday, May 04, 2020 11:36 AM

To: Schollhamer, Mary <Schollhamer.Mary@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Subject: FW: need TPs for Administrator by 11 a.m.

WITH the petition...

Jenny Molloy
U.S. EPA
Water Permits Division
202.564.1939, while in the office

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molloy.jennifer@epa.gov

From: Molloy, Jennifer
Sent: Monday, May 4, 2020 11:33 AM
To: Schollhamer, Mary <Schollhamer.Mary@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Subject: RE: need TPs for Administrator by 11 a.m.

Sorry – I hit accidentally hit “send” before I could provide a bit more context. Attached is the petition, and a summary of what it’s asking for, as well as a chronology of our initial actions pertaining to it.

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U.S. EPA
Water Permits Division
202.564.1939, while in the office

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To: Schollhamer, Mary <Schollhamer.Mary@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Subject: RE: need TPs for Administrator by 11 a.m.

Yes – Food and Water Watch submitted a petition to EPA on the CAFO program, requesting changes to the program. We had a few meetings with them back when Deborah was still Division Director, but we never formally responded.

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Subject: FW: need TPs for Administrator by 11 a.m.

Hello – Do you know anything about a 2017 CAFO petition?

Mary G Schollhamer
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Office of Wastewater Management

U.S. Environmental Protection Agency

Office: 202-564-5759

Ex. 6 Personal Privacy (PP)

schollhamer.mary@epa.gov

Office of Wastewater Management: Solutions for Clean Water

From: Risley, David <Risley.David@epa.gov>

Sent: Monday, May 04, 2020 10:56 AM

To: Schollhamer, Mary <Schollhamer.Mary@epa.gov>

Subject: Fwd: need TPs for Administrator by 11 a.m.

Here's what I just called about. Deadline is 12:30 if possible.

David Risley

EPA Office of Water Communications

Office 202-343-9177

Ex. 6 Personal Privacy (PP)

Begin forwarded message:

From: "Sharpe, Kristinn" <Sharpe.Kristinn@epa.gov>

Date: May 4, 2020 at 8:55:56 AM EDT

To: "Risley, David" <Risley.David@epa.gov>

Cc: "Shaw, Nena" <Shaw.Nena@epa.gov>

Subject: need TPs for Administrator by 11 a.m.

Hi David,

I apologize for the late notice, but we were just asked for talking points on the status of three topics for an Administrator call with Farm Bureau and Cattlemen's tomorrow. If you can please send whatever you have already prepared (bulleted format is fine) on the NPDES MSGP, PFAS, and the enviro CAFO petition that was filed in 2017 by 11 a.m. today, that would be super appreciated. Let me know if I should reach out to someone else (OGC for that last one, for example)...

Thank you, thank you!

Kristinn

Kristinn L. Sharpe

Smart Sectors Program Communications Director

U.S. Environmental Protection Agency

Office: 202-343-9067

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www.epa.gov/smartsectors



Overview – March 8, 2017 CAFO Rulemaking Petition from Food & Water Watch and Others

Petitioners:

Food and Water Watch
Arkansas Rights Coalition
Assateague Coastal Trust (MD)
Association of Irrigated Residents (CA)
Buffalo River Watershed Alliance (AR)
Center for Biological Diversity
Center for Food Safety
Concerned Citizens Against Industrial CAFOs (MD)
Dakota Rural Action (SD)
Dallas County Farmers and Neighbors (IA)
Des Moines Water Works (IA)
Dodge County Concerned Citizens (MN)
Don't Waste Arizona
Environmental Integrity Project
Grand Riverkeeper (OK)
Helping Others Maintain Environmental Standards (IL)
Illinois Citizens for Clean Air and Water (IL)
Institute for Agriculture and Trade Policy

Interfaith Worker Justice (NM)
Iowa Citizens for Community Improvement
Jefferson County Farmers and Neighbors (IA)
Johns Hopkins Center for a Livable Future
Kewaunee Citizens Advocating Responsible
Environmental Stewardship (WI)
Land Stewardship Project (MN)
Midwest Environmental Advocates (WI)
Missouri Rural Crisis Center
Moms Across America Eastern Shore (MD)
Montgomery Township Friends of Family Farms (PA)
North Carolina Environmental Justice Network
Ozark River Stewards (AR)
Patuxent Riverkeeper (MD)
Poweshiek Community Action to Restore
Environmental Stewardship (IA)
Preserve Our Shore Accomack County (VA)
Rio Valle Concerned Citizens (NM)

Relief Sought – Petitioners ask EPA to:

1. Establish an evidentiary presumption that certain CAFOs actually discharge

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2. Re-interpret agricultural stormwater exemption so that no discharges resulting from CAFO activities are exempt as non-point source pollution

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3. Ensure that integrators who meet the CWA definition of owner or operator are co-permitted with contract producers

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4. Revise the regulatory definitions of “medium CAFO” and “production area” and revise designation authorities

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5. Require water quality monitoring in all CAFO NPDES permits

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6. EPA should revise CAFO effluent guidelines

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Ex. 5 Deliberative Process (DP)

Chronology

3/8/2017: FWW and 34 other organizations file petition

5/17/2017: Initial meeting with WPD; EPA agrees to dialogue.

7/5/2017: FWW leads hold planning call with WPD to map next steps

8/30/2017. Call with WPD and petitioner groups

2/27/2018. Call with Marcus Zobrist WPD and petitioner groups

(In addition, there were several other planning and “touch base” calls.)

Observations about calls

- WPD committed to bimonthly “listening” calls, as well as travel upon request to hot spots of concern to meet with local watershed stakeholders
- Calls have –
 - Included OGC and OECA
 - Strayed beyond actionable agenda items into specific local concerns (sometimes outside purview of CWA)
- FWW has followed up with articles and other materials mentioned during calls

Message

From: Lopez-Carbo, Maria [Lopez-Carbo.Maria@epa.gov]
Sent: 5/5/2020 12:47:45 PM
To: Utting, George [Utting.George@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Zobrist, Marcus [Zobrist.Marcus@epa.gov]; Kloss, Christopher [Kloss.Christopher@epa.gov]
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Kristinn L. Sharpe
Smart Sectors Program Communications Director
U.S. Environmental Protection Agency
Office: (202) 343-9062

Ex. 6 Personal Privacy (PP)

www.epa.gov/smartsectors



Message

From: Lopez-Carbo, Maria [Lopez-Carbo.Maria@epa.gov]
Sent: 11/3/2020 12:51:01 PM
To: Molloy, Jennifer [molloy.jennifer@epa.gov]; Zobrist, Marcus [Zobrist.Marcus@epa.gov]; Utting, George [Utting.George@epa.gov]
CC: Kloss, Christopher [Kloss.Christopher@epa.gov]
Subject: RE: ELGs

Good Morning:

I remember you all mentioning this when a response to Anna was drafted earlier in the year.
Thank you all for the quick response.

Maria

From: Molloy, Jennifer <molloy.jennifer@epa.gov>
Sent: Tuesday, November 3, 2020 7:50 AM
To: Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Utting, George <Utting.George@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>
Cc: Kloss, Christopher <Kloss.Christopher@epa.gov>
Subject: RE: ELGs

Ex. 5 Deliberative Process (DP)

Jenny Molloy
U.S. EPA
Water Permits Division

Ex. 6 Personal Privacy (PP)

molloy.jennifer@epa.gov

From: Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Sent: Monday, November 2, 2020 5:55 PM
To: Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>
Subject: FW: ELGs

From: Kupchan, Simma <Kupchan.Simma@epa.gov>
Sent: Monday, November 02, 2020 5:06 PM
To: Wood, Robert <Wood.Robert@epa.gov>; Levine, MaryEllen <levine.maryellen@epa.gov>
Cc: Kloss, Christopher <Kloss.Christopher@epa.gov>; Nagle, Deborah <Nagle.Deborah@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Subject: RE: ELGs

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

Simma Kupchan
EPA Office of General Counsel
Water Law Office
WJC North Building # 7426Q
202-564-3105

From: Wood, Robert <Wood.Robert@epa.gov>
Sent: Monday, November 2, 2020 3:47 PM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Levine, MaryEllen <levine.maryellen@epa.gov>
Cc: Kloss, Christopher <Kloss.Christopher@epa.gov>; Nagle, Deborah <Nagle.Deborah@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Subject: RE: ELGs

Ex. 5 Attorney Client (AC)

*Robert Wood, Director
Engineering and Analysis Division
U.S. EPA Office of Water
202-566-1822*

From: Kupchan, Simma <Kupchan.Simma@epa.gov>
Sent: Monday, November 02, 2020 3:04 PM
To: Levine, MaryEllen <levine.maryellen@epa.gov>; Wood, Robert <Wood.Robert@epa.gov>
Cc: Kloss, Christopher <Kloss.Christopher@epa.gov>
Subject: RE: ELGs

Rob,

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Simma Kupchan
EPA Office of General Counsel
Water Law Office
WJC North Building # 7426Q
202-564-3105

From: Levine, MaryEllen <levine.maryellen@epa.gov>
Sent: Monday, November 2, 2020 1:05 PM
To: Wood, Robert <Wood.Robert@epa.gov>
Cc: Kloss, Christopher <Kloss.Christopher@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: RE: ELGs

Here's what I found – very drafty

- *Mary Ellen*

Mary Ellen Levine
Assistant General Counsel
Water Law Office, Office of General Counsel
7510 C WJC North
(202) 564-1345

From: Wood, Robert <Wood.Robert@epa.gov>
Sent: Monday, November 02, 2020 1:03 PM
To: Levine, MaryEllen <levine.maryellen@epa.gov>
Cc: Kloss, Christopher <Kloss.Christopher@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: Re: ELGs

Hi everybody,

I would like to pull together a very brief status report on the petition. Deborah recalls having some meetings with petitioners, but not sure where we left it. Simma, do you have any record? Thanks,

Rob

*Robert Wood, Director
Engineering and Analysis Division
U.S. EPA Office of Water
202-566-1822*

On Nov 2, 2020, at 9:41 AM, Levine, MaryEllen <levine.maryellen@epa.gov> wrote:

Ex. 5 Attorney Client (AC)

- *Mary Ellen*

Mary Ellen Levine
Assistant General Counsel
Water Law Office, Office of General Counsel
7510 C WJC North
(202) 564-1345

From: Wood, Robert <Wood.Robert@epa.gov>
Sent: Monday, November 02, 2020 9:28 AM
To: Levine, MaryEllen <levine.maryellen@epa.gov>
Subject: FW: ELGs

Hi Mary Ellen,

Could you give me a call or alternatively an email reply with any information on the status of this? Thanks.

*Robert Wood, Director
Engineering and Analysis Division
U.S. EPA Office of Water
202-566-1822*

From: Nagle, Deborah <Nagle.Deborah@epa.gov>
Sent: Monday, November 02, 2020 9:21 AM
To: Wood, Robert <Wood.Robert@epa.gov>
Subject: FW: ELGs

You know about this?

From: Wildeman, Anna <wildeman.anna@epa.gov>
Sent: Monday, November 2, 2020 9:00 AM
To: Nagle, Deborah <Nagle.Deborah@epa.gov>
Cc: Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>
Subject: ELGs

Deborah, are you aware of this petition that was filed in 2017 requesting that EPA update its ELGs for large CAFOs?

Anna Wildeman
Principal Deputy Assistant Administrator
Office of Water
Environmental Protection Agency

1200 Pennsylvania Avenue, NW
Washington, DC 20460
202-564-5700
Wildeman.Ann@epa.gov

Message

From: Utting, George [Utting.George@epa.gov]
Sent: 11/2/2020 10:48:42 PM
To: Lopez-Carbo, Maria [Lopez-Carbo.Maria@epa.gov]; Zobrist, Marcus [Zobrist.Marcus@epa.gov]
CC: Kloss, Christopher [Kloss.Christopher@epa.gov]
Subject: RE: Heads up FW: ELGs

Deborah was WPD Div. Dir. when it first came in. We met with petitioners and had follow-up conference calls. OGC was involved. We continued the process when Marcus was acting DD, **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP)

I did an analysis of the petition when it was filed.

Ex. 5 Attorney Client (AC)

Ex. 5 Attorney Client (AC)

From: Utting, George
Sent: Monday, November 02, 2020 5:40 PM
To: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Cc: Kloss, Christopher <Kloss.Christopher@epa.gov>
Subject: RE: Heads up FW: ELGs

It is the same petition.

From: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>
Sent: Monday, November 02, 2020 5:31 PM
To: Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Utting, George <Utting.George@epa.gov>
Cc: Kloss, Christopher <Kloss.Christopher@epa.gov>
Subject: FW: Heads up FW: ELGs

Hi George: I remember you helping me out with a FWW on CAFO a few months ago.
Does this one seem familiar?
Maria

From: Sawyers, Andrew <Sawyers.Andrew@epa.gov>
Sent: Monday, November 2, 2020 5:24 PM
To: Kloss, Christopher <Kloss.Christopher@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>
Cc: Miller, Wynne <Miller.Wynne@epa.gov>; Sylvester, Francis <Sylvester.Francis@epa.gov>; Nguyen, Amelia <nguyen.amelia@epa.gov>
Subject: FW: Heads up FW: ELGs

FYI

From: Nagle, Deborah <Nagle.Deborah@epa.gov>
Sent: Monday, November 2, 2020 1:43 PM
To: Sawyers, Andrew <Sawyers.Andrew@epa.gov>
Subject: Heads up FW: ELGs

Copying you Andrew on this note from Anna. You may get a question on this petition. My recollection is that WPD (when I was the director) took the lead on the petition, because it mostly focused on the NPDES CAFO Regs. I remember having several meetings with the petitioners before moving to OST.

My staff have reached out to Simma and Chris.

-Deborah

From: Wildeman, Anna <wildeman.anna@epa.gov>
Sent: Monday, November 2, 2020 9:00 AM
To: Nagle, Deborah <Nagle.Deborah@epa.gov>
Cc: Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>
Subject: ELGs

Deborah, are you aware of this petition that was filed in 2017 requesting that EPA update its ELGs for large CAFOs?

Anna Wildeman
Principal Deputy Assistant Administrator
Office of Water
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
202-564-5700
Wildeman.Anna@epa.gov

Industrial Branch Meeting with Chris
12/02/2020

Status Updates:

- DHC Memo*
- 401 NPDES Implementation Memo*
- 316(b) hydro memo*
 - o * Mention on Branch Chief's meeting
- CAFO Petition Response Chart
 - OGC review – ready to go to GC (with edits)

Pending in OW:

- PGP
- BSEE/BOEM MOU

Other:

- OWM Powerpoint Presentation
- PARs
- Resiliency
- Awards
- R1 permits with PFAS condition
 - did Thelma respond to Maria's note?

Message

From: Lopez-Carbo, Maria [Lopez-Carbo.Maria@epa.gov]
Sent: 7/22/2020 11:56:53 AM
To: Kloss, Christopher [Kloss.Christopher@epa.gov]
Subject: FW: Streamlined Response for Anna- CAFO Petitions before OW

Only so you have the final answer on this.

Also, Andrew/Wynne briefed Dave/Anna about our recompetete contract and they said "okay"

So I believe thank you and ok means we passed? 8-)

From: Wildeman, Anna <wildeman.anna@epa.gov>
Sent: Wednesday, July 22, 2020 6:54 AM
To: Sawyers, Andrew <Sawyers.Andrew@epa.gov>
Cc: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>
Subject: Re: Streamlined Response for Anna- CAFO Petitions before OW

Thank you

Anna Wildeman
Principal Deputy Assistant Administrator
Office of Water
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
202-564-5700
Wildeman.Anna@epa.gov

On Jul 21, 2020, at 5:54 PM, Sawyers, Andrew <Sawyers.Andrew@epa.gov> wrote:

Hello Anna:

Regarding the 2017 FWW petition:

- The EPA team met with FWW several times regarding this petition. Attached please find a summary of issues raised by FWW and our responses at the time. The petition is still pending.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

The *withdrawal petition* page is owned and updated by OWM. Because the two petitions listed below are not withdrawal petitions, they were not uploaded to the OWM withdrawal petition website. The

regulatory petition page listed below <https://www.epa.gov/aboutepa/petitions-office-water> belongs to OPA.

From: Wildeman, Anna <wildeman.anna@epa.gov>
Sent: Tuesday, July 21, 2020 9:26 AM
To: Sawyers, Andrew <Sawyers.Andrew@epa.gov>
Cc: Aguirre, Janita <Aguirre.Janita@epa.gov>
Subject: FW: CAFO Petitions before OW

Andrew, can you find out for me if EPA responded to these two petitions? If yes, can you please send me our responses. If no, can you let me know if something is in process? Also see Tom's question below on the FWW petition—should it be on our website?

Thanks,
Anna

From: Thomas Hebert <tom.hebert@bayardridge.com>
Sent: Tuesday, July 21, 2020 9:20 AM
To: Wildeman, Anna <wildeman.anna@epa.gov>
Subject: CAFO Petitions before OW

Hi Anna,

Below are two petitions. The first by Food and Water Watch et al (2017) is referenced in this story on their website: <https://www.foodandwaterwatch.org/news/dozens-advocacy-groups-challenge-epa-factory-farm-pollution>. If you Google the topic you will find several versions of this same story. To my great surprise, the 2017 petition is **not** listed on the OW website. (<https://www.epa.gov/aboutepa/petitions-office-water>). Food and Water watch says they filed it, there are dozens of reviews in the legal trade press about it, but it is not on your website? I can find no reference in the press, etc. to this 2017 petition being “withdrawn.” I am puzzled.

The second one (2015) is on your website.

I will be interested in hearing what you find out about both of these.

1. <https://buffaloriveralliance.org/resources/Pictures/citizens%20cafo%20cwa%20petition.pdf>
2. https://www.epa.gov/sites/production/files/2016-09/documents/cwa_cafo_ebrotzman_9_2015.pdf

Best!

Tom

<Summary - FWW Petition (002).docx>

Message

From: Lopez-Carbo, Maria [Lopez-Carbo.Maria@epa.gov]
Sent: 7/21/2020 7:32:02 PM
To: Sawyers, Andrew [Sawyers.Andrew@epa.gov]; Kloss, Christopher [Kloss.Christopher@epa.gov]
CC: Miller, Wynne [Miller.Wynne@epa.gov]; Sylvester, Francis [Sylvester.Francis@epa.gov]
Subject: RE: CAFO Petitions before OW

Andrew- the pages are owned by OPA. Kit was able to verify.

From: Lopez-Carbo, Maria
Sent: Tuesday, July 21, 2020 2:11 PM
To: Sawyers, Andrew <Sawyers.Andrew@epa.gov>; Kloss, Christopher <Kloss.Christopher@epa.gov>
Cc: Miller, Wynne <Miller.Wynne@epa.gov>; Sylvester, Francis <Sylvester.Francis@epa.gov>
Subject: RE: CAFO Petitions before OW

Hi Andrew:

I just got off the phone with the team. Apparently the request came in and Mary moved it to OW/IO and from there it went to the Administrator and they heard that the AO was planning to meet with them but they are not sure if that actually happened. For that reason, we have amended the response below.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Macara has not responded to the email. I'm trying to see if Kit can see who is the owner.

Thanks

Maria

Good Morning Anna:

EPA has distinct website pages regarding petitions. The withdrawal petition page is owned and updated by OWM. Because the two petitions listed below are not withdrawal petitions, they were not uploaded to the OWM withdrawal petition website. If we recall correctly, the Water Policy in OW is responsible for the petition page at <https://www.epa.gov/aboutepa/petitions-office-water> but we would need to look into the website program area to determine if they are the correct owners.

Regarding the 2017 FWW petition:

- The EPA team has met with FWW several times regarding this petition. Attached you will find summary of issues raised by FWW and our response at the time.
- The petition-raises a number of longstanding concerns of environmental organizations. Some of their requests involve more robust enforcement of existing CAFO regulations,

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

From: Sawyers, Andrew <Sawyers.Andrew@epa.gov>
Sent: Tuesday, July 21, 2020 1:04 PM

To: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Kloss, Christopher <Kloss.Christopher@epa.gov>

Cc: Miller, Wynne <Miller.Wynne@epa.gov>; Sylvester, Francis <Sylvester.Francis@epa.gov>

Subject: RE: CAFO Petitions before OW

Thanks Maria, I'll wait for a full response. However, as I read through your note below, I did not gather how we responded to FFW petition. Are we still gathering information to respond? Did we have our last meeting in 2017? Is their an expectation to provide an interim response

From: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>

Sent: Tuesday, July 21, 2020 12:06 PM

To: Sawyers, Andrew <Sawyers.Andrew@epa.gov>; Kloss, Christopher <Kloss.Christopher@epa.gov>

Cc: Miller, Wynne <Miller.Wynne@epa.gov>; Sylvester, Francis <Sylvester.Francis@epa.gov>

Subject: RE: CAFO Petitions before OW

Good Morning Andrew – for your consideration, feel free to edit. I have reached out Macara to see if they own the website described below. I was not sure if you wanted to send the email to Anna with that not addressed or if you rather wait for Macara to respond and we can confirm if this website falls under her responsibility. Thanks.

Ex. 5 Deliberative Process (DP)

Regarding the 2017 FWW petition:

- The EPA team has met with FWW several times regarding this petition. Attached you will find information regarding the meeting EPA hosted with FWW in March 8 2017.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

From: Sawyers, Andrew <Sawyers.Andrew@epa.gov>

Sent: Tuesday, July 21, 2020 9:29 AM

To: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Kloss, Christopher <Kloss.Christopher@epa.gov>

Cc: Miller, Wynne <Miller.Wynne@epa.gov>; Sylvester, Francis <Sylvester.Francis@epa.gov>; Sylvester, Francis <Sylvester.Francis@epa.gov>

Subject: FW: CAFO Petitions before OW

Hello Maria and Chris, please see the request from Anna below. Please let me know what you find out – thanks.

From: Wildeman, Anna <wildeman.anna@epa.gov>
Sent: Tuesday, July 21, 2020 9:26 AM
To: Sawyers, Andrew <Sawyers.Andrew@epa.gov>
Cc: Aguirre, Janita <Aguirre.Janita@epa.gov>
Subject: FW: CAFO Petitions before OW

Andrew, can you find out for me if EPA responded to these two petitions? If yes, can you please send me our responses. If no, can you let me know if something is in process? Also see Tom's question below on the FWW petition—should it be on our website?

Thanks,
Anna

From: Thomas Hebert <tom.hebert@bayardridge.com>
Sent: Tuesday, July 21, 2020 9:20 AM
To: Wildeman, Anna <wildeman.anna@epa.gov>
Subject: CAFO Petitions before OW

Hi Anna,

Below are two petitions. The first by Food and Water Watch et al (2017) is referenced in this story on their website: <https://www.foodandwaterwatch.org/news/dozens-advocacy-groups-challenge-epa-factory-farm-pollution>. If you Google the topic you will find several versions of this same story. To my great surprise, the 2017 petition is **not** listed on the OW website. (<https://www.epa.gov/aboutepa/petitions-office-water>). Food and Water watch says they filed it, there are dozens of reviews in the legal trade press about it, but it is not on your website? I can find no reference in the press, etc. to this 2017 petition being "withdrawn." I am puzzled.

The second one (2015) is on your website.

I will be interested in hearing what you find out about both of these.

1. <https://buffaloriveralliance.org/resources/Pictures/citizens%20cafo%20cwa%20petition.pdf>
2. https://www.epa.gov/sites/production/files/2016-09/documents/cwa_cafo_ebrotzman_9_2015.pdf

Best!

Tom

Message

From: Zobrist, Marcus [Zobrist.Marcus@epa.gov]
Sent: 11/25/2020 6:07:25 PM
To: Kloss, Christopher [Kloss.Christopher@epa.gov]
Subject: RE: IB Updates from OWM Bi-Weekly

Thanks. Does she still expect a briefing on the 401 cert conditions related to these permits?

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

From: Kloss, Christopher
Sent: Wednesday, November 25, 2020 10:57 AM
To: Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Subject: RE: IB Updates from OWM Bi-Weekly

They actually did. Thanks for reminding me.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Chris Kloss
Water Permits Division
US EPA Office of Water
202.564.1438 (o)

Ex. 6 Personal Privacy (PP)

From: Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Sent: Wednesday, November 25, 2020 10:44 AM
To: Kloss, Christopher <Kloss.Christopher@epa.gov>
Subject: FW: IB Updates from OWM Bi-Weekly

Thanks. Good plan on the petitions, we can get the petition table updated next week, it's in good shape.

I talked with George about how to revise the memo, and we should have that by Friday as well, but there is some work there. Note, I believe he is only working 3 days next week, and only 8 in December.

Sounds like the R10 permits did not come up?

From: Kloss, Christopher
Sent: Wednesday, November 25, 2020 10:29 AM
To: Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Cc: Chan, Jennifer <Chan.Jennifer@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>
Subject: IB Updates from OWM Bi-Weekly

Hey Marcus,

Here is a bit of info from yesterday's discussion with the 3rd floor.

Ex. 5 Deliberative Process (DP)

Thanks and happy to chat through these more.

Chris Kloss
Water Permits Division
US EPA Office of Water
202.564.1438 (o)

Ex. 6 Personal Privacy (PP)

Message

From: Lopez-Carbo, Maria [Lopez-Carbo.Maria@epa.gov]
Sent: 4/27/2020 9:09:41 PM
To: Kloss, Christopher [Kloss.Christopher@epa.gov]
Subject: list of projects

National Program:

1. ICR Dental Amalgam – just signed on Friday, April 24th for first FRN.
2. NPDES Clearinghouse – pending PFAS memo release
3. Nutrients
 - a. Biweekly meeting with Anna
 - b. White papers – Water Quality Trading
 - c. Rulemaking for Water Quality
 - d. Finalize the comments on the Policy
 - e. Nutrient Compendium/Training
 - f. Nutrient lake on a FAQ.
4. PQR Check ins
5. NPDES Permit Trainers
6. Program Measures:
 - a. Bowling Charts
 - b. Agency Priority Goals
 - c. NPOP (Henry Darwin)
7. WET Training
8. ICIS Data
9. Maui Decision -

Ex. 5 Deliberative Process (DP)

10. Programmatic ICR
11. WET –

Ex. 5 Deliberative Process (DP)
12. Selenium – Nizanna, Laura and Jackie, Scott Wilson.
13. Texas program.
14. Withdrawal petitions on website.
15. OIG on NPDES
16. Petition by Water and Food Watch and do more on CAFO.

Ex. 5 Deliberative Process (DP)

Industrial Branch:

1. PFAS memo
2. Maui Decision
3. 401 cert new rule
4. Biosolids
5. COVID – depopulation and milk dumping
6. AADG

From: Kloss, Christopher <Kloss.Christopher@epa.gov>
Sent: Monday, April 27, 2020 5:02 PM
To: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>
Subject: RE: NPOP Policy & pre test info

Thanks.

Chris Kloss
US EPA Office of Water
Municipal Branch – Water Permits Division
202.564.1438 (o)

Ex. 6 Personal Privacy (PP)

From: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>
Sent: Monday, April 27, 2020 4:35 PM
To: Kloss, Christopher <Kloss.Christopher@epa.gov>
Subject: NPOP Policy & pre test info

Message

From: Utting, George [Utting.George@epa.gov]
Sent: 11/12/2020 9:12:20 PM
To: Zobrist, Marcus [Zobrist.Marcus@epa.gov]
CC: Lopez-Carbo, Maria [Lopez-Carbo.Maria@epa.gov]; Kloss, Christopher [Kloss.Christopher@epa.gov]; Chan, Jennifer [Chan.Jennifer@epa.gov]
Subject: Re: Outstanding Petitions

Just checking emails. I see there a large number I have not yet opened. Assuming this continues to be a priority, I can do this next week. Maybe best to touch base when I am back "in the office" on Monday.

Sent from my iPhone

On Nov 12, 2020, at 12:19 PM, Zobrist, Marcus <Zobrist.Marcus@epa.gov> wrote:

George,

I talked with Chris (and Jennifer) – we came up with these next steps:

Ex. 5 Deliberative Process (DP)

Copy Chris, Maria, and Jennifer in case you want to add to this.

From: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>
Sent: Tuesday, November 10, 2020 4:08 PM
To: Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Kloss, Christopher <Kloss.Christopher@epa.gov>

Cc: Utting, George <Utting.George@epa.gov>

Subject: RE: Outstanding Petitions

Hi Marcus-

Let me find some time to chat.

Only FYI that Andrew did share that this would be a heavy lift but let's sit down and chat.

Thanks.

Maria

From: Zobrist, Marcus <Zobrist.Marcus@epa.gov>

Sent: Tuesday, November 10, 2020 3:34 PM

To: Kloss, Christopher <Kloss.Christopher@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>

Cc: Utting, George <Utting.George@epa.gov>

Subject: FW: Outstanding Petitions

Chris, Maria,

Before we get back to Anna on developing petition responses, I would like to discuss the potential workload.

Ex. 5 Deliberative Process (DP)

From: Zobrist, Marcus <Zobrist.Marcus@epa.gov>

Sent: Tuesday, November 10, 2020 1:52 PM

To: Utting, George <Utting.George@epa.gov>

Subject: FW: Outstanding Petitions

These are the petitions....

From: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>

Sent: Tuesday, November 10, 2020 1:27 PM

To: Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Kloss, Christopher <Kloss.Christopher@epa.gov>

Cc: Chan, Jennifer <Chan.Jennifer@epa.gov>

Subject: RE: Outstanding Petitions

Hi Marcus:

Adding a few more items in addition to the files:

1. Our response to Anna back in the summer:
Hello Anna:

Regarding the 2017 FWW petition:

- The EPA team met with FWW several times regarding this petition. Attached please find a summary of issues raised by FWW and our responses at the time. The petition is still pending. OWM currently is not actively working on it.
- The petition raises a number of longstanding concerns and many of their requests we interpret to exceed the scope of EPA's authority, as interpreted in *National Pork Producers' Council v. EPA* (5th Cir. 2011).

Ex. 5 Deliberative Process (DP)

The *withdrawal petition* page is owned and updated by OWM. Because the two petitions listed below are not withdrawal petitions, they were not uploaded to the OWM withdrawal petition website. The regulatory petition page listed below <https://www.epa.gov/aboutepa/petitions-office-water> belongs to OPA.

From: Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Sent: Tuesday, November 10, 2020 11:59 AM
To: Kloss, Christopher <Kloss.Christopher@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>
Cc: Chan, Jennifer <Chan.Jennifer@epa.gov>
Subject: RE: Outstanding Petitions

Could someone forward me the attached petitions – not sure what is being referred to.

From: Kloss, Christopher <Kloss.Christopher@epa.gov>
Sent: Tuesday, November 10, 2020 11:15 AM
To: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Cc: Chan, Jennifer <Chan.Jennifer@epa.gov>
Subject: RE: Outstanding Petitions

Thanks Maria – I didn't connect the dots on this. I can forward George's initial assessment to Andrew for context unless there is other info that we should provide.

From: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>
Sent: Tuesday, November 10, 2020 11:07 AM
To: Kloss, Christopher <Kloss.Christopher@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Cc: Chan, Jennifer <Chan.Jennifer@epa.gov>
Subject: RE: Outstanding Petitions

Hi Chris- these are the petitions that came in a week or so ago and Marcus/George/Jenny were contacted by OST.

Quick summary:

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Thanks.

Maria

From: Kloss, Christopher <Kloss.Christopher@epa.gov>

Sent: Tuesday, November 10, 2020 10:52 AM

To: Weiss, Kevin <Weiss.Kevin@epa.gov>

Cc: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Chan, Jennifer <Chan.Jennifer@epa.gov>

Subject: FW: Outstanding Petitions

Kevin,

Please see Andrew's email below. Checking to see if you have any awareness – I do not have any specific information. Thanks.

Chris Kloss

Water Permits Division

US EPA Office of Water

202-564-1438 (x)

Ex. 6 Personal Privacy (PP)

From: Sawyers, Andrew <Sawyers.Andrew@epa.gov>

Sent: Tuesday, November 10, 2020 10:42 AM

To: Kloss, Christopher <Kloss.Christopher@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Miller, Wynne <Miller.Wynne@epa.gov>

Subject: FW: Outstanding Petitions

Chris, do you have any intelligence on the following? I need it before I call Anna.

Thanks

From: Wildeman, Anna <wildeman.anna@epa.gov>

Sent: Tuesday, November 10, 2020 7:46 AM

To: Sawyers, Andrew <Sawyers.Andrew@epa.gov>

Subject: Outstanding Petitions

Andrew, please give me a call about the attached petitions.

Thanks,

Anna

Anna Wildeman

Principal Deputy Assistant Administrator

Office of Water

Environmental Protection Agency

1200 Pennsylvania Avenue, NW

Washington, DC 20460

202-564-5700

Wildeman.Anna@epa.gov

Message

From: Lopez-Carbo, Maria [Lopez-Carbo.Maria@epa.gov]
Sent: 11/10/2020 4:35:29 PM
To: Kloss, Christopher [Kloss.Christopher@epa.gov]
Subject: RE: Streamlined Response for Anna- CAFO Petitions before OW

Just fwd it.

From: Kloss, Christopher <Kloss.Christopher@epa.gov>
Sent: Tuesday, November 10, 2020 11:33 AM
To: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>
Subject: RE: Streamlined Response for Anna- CAFO Petitions before OW

Thanks, Maria. Do you still have the summary document that was attached to this email originally?

From: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>
Sent: Tuesday, November 10, 2020 11:24 AM
To: Kloss, Christopher <Kloss.Christopher@epa.gov>
Subject: FW: Streamlined Response for Anna- CAFO Petitions before OW

Here you go.

From: Wildeman, Anna <wildeman.anna@epa.gov>
Sent: Wednesday, July 22, 2020 6:54 AM
To: Sawyers, Andrew <Sawyers.Andrew@epa.gov>
Cc: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>
Subject: Re: Streamlined Response for Anna- CAFO Petitions before OW

Thank you

Anna Wildeman
Principal Deputy Assistant Administrator
Office of Water
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
202-564-5700
Wildeman.Anna@epa.gov

On Jul 21, 2020, at 5:54 PM, Sawyers, Andrew <Sawyers.Andrew@epa.gov> wrote:

Hello Anna:

Regarding the 2017 FWW petition:

- The EPA team met with FWW several times regarding this petition. Attached please find a summary of issues raised by FWW and our responses at the time. The petition is still pending. **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

The *withdrawal petition* page is owned and updated by OWM. Because the two petitions listed below are not withdrawal petitions, they were not uploaded to the OWM withdrawal petition website. The regulatory petition page listed below <https://www.epa.gov/aboutepa/petitions-office-water> belongs to OPA.

From: Wildeman, Anna <wildeman.anna@epa.gov>
Sent: Tuesday, July 21, 2020 9:26 AM
To: Sawyers, Andrew <Sawyers.Andrew@epa.gov>
Cc: Aguirre, Janita <Aguirre.Janita@epa.gov>
Subject: FW: CAFO Petitions before OW

Andrew, can you find out for me if EPA responded to these two petitions? If yes, can you please send me our responses. If no, can you let me know if something is in process? Also see Tom's question below on the FWW petition—should it be on our website?

Thanks,
Anna

From: Thomas Hebert <tom.hebert@bayardridge.com>
Sent: Tuesday, July 21, 2020 9:20 AM
To: Wildeman, Anna <wildeman.anna@epa.gov>
Subject: CAFO Petitions before OW

Hi Anna,

Below are two petitions. The first by Food and Water Watch et al (2017) is referenced in this story on their website: <https://www.foodandwaterwatch.org/news/dozens-advocacy-groups-challenge-epa-factory-farm-pollution>. If you Google the topic you will find several versions of this same story. To my great surprise, the 2017 petition is **not** listed on the OW website. (<https://www.epa.gov/aboutepa/petitions-office-water>). Food and Water watch says they filed it, there are dozens of reviews in the legal trade press about it, but it is not on your website? I can find no reference in the press, etc. to this 2017 petition being "withdrawn." I am puzzled.

The second one (2015) is on your website.

I will be interested in hearing what you find out about both of these.

1. <https://buffaloriveralliance.org/resources/Pictures/citizens%20cafo%20cwa%20petition.pdf>
2. https://www.epa.gov/sites/production/files/2016-09/documents/cwa_cafo_ebrotzman_9_2015.pdf

Best!

Tom

<Summary - FWW Petition (002).docx>

Message

From: Lopez-Carbo, Maria [Lopez-Carbo.Maria@epa.gov]
Sent: 11/10/2020 4:17:53 PM
To: Kloss, Christopher [Kloss.Christopher@epa.gov]
Subject: FW: Outstanding Petitions
Attachments: FWW Alt Petition.pdf; Brotzman_Alt Petition.pdf

We also provided anna with a response several months ago. Do you want me to find it and move it to you?
The response is short. Like 2-3 bullets per petition.

From: Kloss, Christopher <Kloss.Christopher@epa.gov>
Sent: Tuesday, November 10, 2020 10:52 AM
To: Weiss, Kevin <Weiss.Kevin@epa.gov>
Cc: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Chan, Jennifer <Chan.Jennifer@epa.gov>
Subject: FW: Outstanding Petitions

Kevin,

Please see Andrew's email below. Checking to see if you have any awareness – I do not have any specific information.
Thanks.

Chris Kloss
Water Permits Division
US EPA Office of Water
202.564.1438 (o)

Ex. 6 Personal Privacy (PP)

From: Sawyers, Andrew <Sawyers.Andrew@epa.gov>
Sent: Tuesday, November 10, 2020 10:42 AM
To: Kloss, Christopher <Kloss.Christopher@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Miller, Wynne <Miller.Wynne@epa.gov>
Subject: FW: Outstanding Petitions

Chris, do you have any intelligence on the following? I need it before I call Anna.

Thanks

From: Wildeman, Anna <wildeman.anna@epa.gov>
Sent: Tuesday, November 10, 2020 7:46 AM
To: Sawyers, Andrew <Sawyers.Andrew@epa.gov>
Subject: Outstanding Petitions

Andrew, please give me a call about the attached petitions.
Thanks,
Anna

Anna Wildeman
Principal Deputy Assistant Administrator
Office of Water

Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
202-564-5700
Wildeman.Ann@epa.gov

Message

From: Sawyers, Andrew [Sawyers.Andrew@epa.gov]
Sent: 12/22/2020 7:43:17 PM
To: Wildeman, Anna [wildeman.anna@epa.gov]
CC: Kloss, Christopher [Kloss.Christopher@epa.gov]; Miller, Wynne [Miller.Wynne@epa.gov]
Subject: FW: CAFO Petitions Summary
Attachments: Appendix A for Petitions to Revise CAFO Regulations final.docx

Hello Anna,

Per your request, the attached the table in Appendix A is intended to be a reference guide to the issues presented in the Food & Water Watch petition, which is one of two petitions seeking revisions to the NPDES regulations and ELGs that address discharges from CAFOs (the petition filed in 2017 by F&WW and a coalition of other environmental petitioners,

Ex. 5 Deliberative Process (DP)

at the end of Appendix A. The table provides a summary of each of the issues presented in the F&WW petition, the offices (OGC, OST, OWM, OECA) most likely to play a key role in the response, some regulatory context, and some other considerations that would factor into a response.

Ex. 5 Deliberative Process (DP)

Thanks

Industrial Branch Meeting with Chris
12/16/2020

Status Updates:

Ex. 5 Deliberative Process (DP)

- CAFO Petition Response Chart
- Revised draft with you

Ex. 5 Deliberative Process (DP)

Pending in OW:

- BSEE/BOEM MOU (looks like OW is coordinating signatures/final clearance)

Ex. 5 Deliberative Process (DP)

Message

From: Lopez-Carbo, Maria [Lopez-Carbo.Maria@epa.gov]
Sent: 12/14/2020 6:38:42 PM
To: Kloss, Christopher [Kloss.Christopher@epa.gov]
Subject: FW: draft not to Anna providing the summary of issues in the CAFO petitions
Attachments: Appendix A for Petitions to Revise CAFO Regulations final_wpd.docx

Sorry about that! I somehow sent the email.

Here are a few track changes. Take a look and see if its okay.

Thanks.

Maria

From: Lopez-Carbo, Maria
Sent: Monday, December 14, 2020 1:38 PM
To: Kloss, Christopher <Kloss.Christopher@epa.gov>
Subject: FW: draft not to Anna providing the summary of issues in the CAFO petitions

From: Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Sent: Friday, December 11, 2020 9:56 AM
To: Kloss, Christopher <Kloss.Christopher@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>
Cc: Utting, George <Utting.George@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>
Subject: draft not to Anna providing the summary of issues in the CAFO petitions

Chris, Maria,

Attached is the table that describes the CAFO petitions, and a short note below. George developed the first versions of the table, which was reviewed by staff in OST and OGC (Simma), Jenny and George then shortened and clarified it further.

Also below is a short description that could be provided in an email transmitting the Table to Anna.

Anna,

Per your request, the attached the table in Appendix A is intended to be a reference guide to the numerous complex issues presented in the Food & Water Watch petition, which is one of two petitions seeking revisions to the NPDES regulations and ELGs that address discharges from CAFOs (the petition filed in 2017 by F&WW a Ex. 5 Deliberative Process (DP))

Ex. 5 Deliberative Process (DP)

The table provides a summary of each of the issues presented in the F&WW petition, the offices (OGC, OST, OWM, OECA) most likely to play a key role in the response, some regulatory context, and some other considerations that would factor into a response.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Message

From: Levine, MaryEllen [levine.maryellen@epa.gov]
Sent: 3/8/2017 10:27:57 PM
To: Kloss, Christopher [Kloss.Christopher@epa.gov]; Ford, Peter [Ford.Peter@epa.gov]
Subject: FW: Food & Water Watch et al petition
Attachments: citizens_cafo_cwa_petition.pdf

For situational awareness.

- *Mary Ellen*

Mary Ellen Levine
Assistant General Counsel
Water Law Office, Office of General Counsel
7510 C WJC North
(202) 564-5487

From: Kupchan, Simma
Sent: Wednesday, March 08, 2017 5:06 PM
To: Levine, MaryEllen <levine.maryellen@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>
Subject: FW: Food & Water Watch et al petition

FYI – petition to revise the CAFO regulations.

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

From: Bonnelycke, Nina
Sent: Wednesday, March 08, 2017 5:02 PM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>
Cc: Molloy, Jennifer <molloy.jennifer@epa.gov>; Abrams, Nancy <Abrams.Nancy@epa.gov>
Subject: Fw: Food & Water Watch et al petition

Just in case you haven't seen this yet.

~~~~~  
*Nina J. Bonnelycke*  
Rural Branch, Water Permits Division  
Office of Wastewater Management  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W., 4203M  
Washington, D.C. 20460  
(202)564-0764

**From:** Molloy, Jennifer

**Sent:** Wednesday, March 8, 2017 4:52 PM

**To:** Abrams, Nancy; Bonnelycke, Nina; Jones, Kristin; Subramanian, Hema; Utting, George; Ziobro, Joseph

**Subject:** Food & Water Watch et al petition

I haven't read it carefully, but I scanned it. It's interesting and also frustrating.

Jenny Molloy

U.S. EPA

Water Permits Division

202.564.1939

[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

## Appointment

---

**From:** Kupchan, Simma [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=784E0AEA94A7485FA0435CC0CF5A62A5-SASHER]  
**Sent:** 1/4/2018 4:06:46 PM  
**To:** Levine, MaryEllen [levine.maryellen@epa.gov]

**Subject:** CAFO petition and catch up  
**Location:** Simma will call MEL

**Start:** 1/4/2018 7:30:00 PM  
**End:** 1/4/2018 8:30:00 PM  
**Show Time As:** Tentative

**Required Attendees:** Levine, MaryEllen

## Appointment

---

**From:** Kupchan, Simma [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=784E0AEA94A7485FA0435CC0CF5A62A5-SASHER]  
**Sent:** 3/16/2017 6:00:38 PM  
**To:** Molloy, Jennifer [molloy.jennifer@epa.gov]  
**Subject:** Declined: CAFO petition from F&WW et al  
**Location:** DCRoomEast7203/DC-ICC-OWM  
**Start:** 3/16/2017 6:30:00 PM  
**End:** 3/16/2017 7:15:00 PM  
**Show Time As:** Busy



## Appointment

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**From:** Brennan, Ross [Brennan.Ross@epa.gov]  
**Sent:** 6/13/2018 9:33:30 PM  
**To:** Brennan, Ross [Brennan.Ross@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]; Utting, George [Utting.George@epa.gov]

**Subject:** -Touch base - Next steps for FWW CAFO petition  
**Location:** Simma's conference room?

**Start:** 6/27/2018 6:30:00 PM  
**End:** 6/27/2018 7:00:00 PM  
**Show Time As:** Tentative

**Required Attendees:** Kupchan, Simma; Utting, George

## Appointment

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**From:** Kupchan, Simma [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=784E0AEA94A7485FA0435CC0CF5A62A5-SASHER]  
**Sent:** 3/20/2017 3:05:28 PM  
**To:** Molloy, Jennifer [molloy.jennifer@epa.gov]  
**Subject:** Accepted: CAFO petition from F&WW et al  
**Start:** 3/20/2017 7:30:00 PM  
**End:** 3/20/2017 8:00:00 PM  
**Show Time As:** Busy

## Appointment

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**From:** Kupchan, Simma [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=784E0AEA94A7485FA0435CC0CF5A62A5-SASHER]  
**Sent:** 3/20/2017 3:01:50 PM  
**To:** Molloy, Jennifer [molloy.jennifer@epa.gov]  
**Subject:** New Time Proposed: CAFO petition from F&WW et al  
**Location:** DCRoomEast7203/DC-ICC-OWM  
**Start:** 3/20/2017 2:30:00 PM  
**End:** 3/20/2017 3:00:00 PM  
**Show Time As:** Busy

## Appointment

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**From:** Kupchan, Simma [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=784E0AEA94A7485FA0435CC0CF5A62A5-SASHER]  
**Sent:** 3/15/2017 3:05:50 PM  
**To:** Molloy, Jennifer [molloy.jennifer@epa.gov]  
**Subject:** Accepted: CAFO petition from F&WW et al  
**Location:** DCRoomEast7203/DC-ICC-OWM  
**Start:** 3/16/2017 6:30:00 PM  
**End:** 3/16/2017 7:15:00 PM  
**Show Time As:** Busy

## Appointment

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**From:** Kupchan, Simma [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=784E0AEA94A7485FA0435CC0CF5A62A5-SASHER]  
**Sent:** 3/16/2017 9:14:50 PM  
**To:** Molloy, Jennifer [molloy.jennifer@epa.gov]  
**Subject:** Accepted: CAFO petition from F&WW et al  
**Location:** DCRoomEast7203/DC-ICC-OWM  
**Start:** 3/20/2017 2:30:00 PM  
**End:** 3/20/2017 3:00:00 PM  
**Show Time As:** Busy

## Appointment

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**From:** Kupchan, Simma [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=784E0AEA94A7485FA0435CC0CF5A62A5-SASHER]  
**Sent:** 5/15/2017 3:17:08 PM  
**To:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Subject:** Accepted: CAFO CWA Petition  
**Location:** 1201 Constitution Avenue, N.W., Room 7217, William Jefferson Clinton Building; Dial in: 1-866-299-3188; Passcode: 2025641185#  
**Start:** 5/17/2017 6:00:00 PM  
**End:** 5/17/2017 7:00:00 PM  
**Show Time As:** Busy

## Appointment

---

**From:** Kupchan, Simma [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=784E0AEA94A7485FA0435CC0CF5A62A5-SASHER]  
**Sent:** 1/3/2018 4:47:12 PM  
**To:** Kupchan, Simma [Kupchan.Simma@epa.gov]; Levine, MaryEllen [levine.maryellen@epa.gov]  
**Subject:** CAFO petition and catch up  
**Location:** Simma will call MEL  
**Start:** 1/4/2018 7:30:00 PM  
**End:** 1/4/2018 8:30:00 PM  
**Show Time As:** Busy

**Required Attendees:** Levine, MaryEllen

## Appointment

---

**From:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Sent:** 5/15/2017 3:10:45 PM  
**To:** Nagle, Deborah [Nagle.Deborah@epa.gov]; Brennan, Ross [Brennan.Ross@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Utting, George [Utting.George@epa.gov]; Bonnelycke, Nina [Bonnelycke.Nina@epa.gov]; Tarah Heinzen [theinzen@fwwatch.org]; Shenk, Kelly [shenk.kelly@epa.gov]; Wood, Robert [Wood.Robert@epa.gov]; Goodwin, Janet [Goodwin.Janet@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]; Levine, MaryEllen [levine.maryellen@epa.gov]  
**CC:** Sarah Geers [sgeers@midwestadvocates.org]; Michele Merkel [mmerkel@fwwatch.org]; Scott Edwards [sedwards@fwwatch.org]; Terry, Jennifer [terry@dmww.com]; Robert Martin [rmarti57@jhu.edu]; Paul Hinson [hinsonpr@epa.gov]; Adam Kron [akron@environmentalintegrity.org]; Zipf, Lynn [Zipf.Lynn@epa.gov]  
Ex. 6 Personal Privacy (PP)  
**Subject:** CAFO CWA Petition  
**Location:** 1201 Constitution Avenue, N.W., Room 7217, William Jefferson Clinton Building; Dial in: 1-866-299-3188; Passcode: 2025641185#  
**Start:** 5/17/2017 6:00:00 PM  
**End:** 5/17/2017 7:00:00 PM  
**Show Time As:** Busy

**Required Attendees:** Nagle, Deborah; Brennan, Ross; Molloy, Jennifer; Utting, George; Bonnelycke, Nina; Tarah Heinzen; Shenk, Kelly; Wood, Robert; Shriner, Paul; Goodwin, Janet; Kupchan, Simma; Levine, MaryEllen  
**Optional Attendees:** Sarah Geers; Michele Merkel; Scott Edwards; Terry, Jennifer; cruisermomii; Robert Martin; Paul Hinson; Adam Kron; Zipf, Lynn



## Appointment

---

**From:** Molloy, Jennifer [molloy.jennifer@epa.gov]  
**Sent:** 3/16/2017 7:38:33 PM  
**To:** Molloy, Jennifer [molloy.jennifer@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]

**Subject:** CAFO petition from F&WW et al

**Start:** 3/20/2017 7:30:00 PM  
**End:** 3/20/2017 8:00:00 PM  
**Show Time As:** Busy

**Required Attendees:** Kupchan, Simma

## Appointment

---

**From:** Levine, MaryEllen [levine.maryellen@epa.gov]  
**Sent:** 1/3/2018 5:07:00 PM  
**To:** Kupchan, Simma [Kupchan.Simma@epa.gov]

**Subject:** Accepted: CAFO petition and catch up  
**Location:** MEL's office

**Start:** 1/4/2018 4:00:00 PM  
**End:** 1/4/2018 4:45:00 PM  
**Show Time As:** Busy

Message

---

**From:** Curtin, James [curtin.james@epa.gov]  
**Sent:** 3/23/2017 7:18:34 PM  
**To:** Havard, James [Havard.James@epa.gov]; Day, Christopher [Day.Christopher@epa.gov]; Gable, Kelly [Gable.Kelly@epa.gov]  
**CC:** Monschein, Eric [Monschein.Eric@epa.gov]; Lewicki, Chris [Lewicki.Chris@epa.gov]; MacKnight, Evelyn [MacKnight.Evelyn@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]; Levine, MaryEllen [levine.maryellen@epa.gov]  
**Subject:** RE: CAFO Rulemaking Considerations  
**Flag:** Follow up

I'm sorry I couldn't join the call yesterday. I ended up with a conflicting meeting. I hope it was productive.

# Ex. 5 AC/AWP/DP

Anyway, sorry I couldn't make it, but I'm happy to be part of the continuing conversation about this.

*Jim*

Jim Curtin  
USEPA Office of General Counsel  
Water Law Office  
202-564-5482  
William Jefferson Clinton North Rm. 7451

---

**From:** Havard, James  
**Sent:** Thursday, March 23, 2017 9:32 AM  
**To:** Curtin, James <curtin.james@epa.gov>; Day, Christopher <Day.Christopher@epa.gov>; Gable, Kelly <Gable.Kelly@epa.gov>  
**Cc:** Monschein, Eric <Monschein.Eric@epa.gov>; Lewicki, Chris <Lewicki.Chris@epa.gov>; MacKnight, Evelyn <MacKnight.Evelyn@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Subject:** RE: CAFO Rulemaking Considerations

## Ex. 5 AC/AWP/DP

-----Original Appointment-----

**From:** Kupchan, Simma

**Sent:** Tuesday, March 14, 2017 12:49 PM

**To:** Kupchan, Simma; Levine, MaryEllen; Curtin, James; Nagle, Deborah; Abrams, Nancy; Utting, George; Molloy, Jennifer; Duchovnay, Andrew; Shenk, Kelly; McGuigan, David; Day, Christopher; Havard, James; Lewicki, Chris; Pollins, Mark; Theis, Joseph; Bahk, Benjamin; Gable, Kelly; Buterbaugh, Kristin; Greenwald, Kathryn; Shriner, Paul; Matuszko, Jan

**Cc:** Trulear, Brian; Zolandz, Mark

**Subject:** CAFO Rulemaking Considerations

**When:** Wednesday, March 22, 2017 4:00 PM-5:00 PM (UTC-05:00) Eastern Time (US & Canada).

**Where:** DCRoomARN6013/DC-Ariel-Rios-OGC; DCCConfARN-8662993188-C2025645476/WLO-Conf-Line/DC-Ariel-Rios-OGC

The purpose of this meeting is to evaluate and think about next steps on two drivers for considering new CAFO regulations:

**Ex. 5 AC/AWP/DP**

Message

---

**From:** Molloy, Jennifer [molloy.jennifer@epa.gov]  
**Sent:** 3/20/2017 2:42:45 PM  
**To:** Kupchan, Simma [Kupchan.Simma@epa.gov]  
**Subject:** RE: CAFO petition from F&WW et al

Should I call you somewhere other than your desk? I tried there, but didn't get an answer.

Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939  
molloy.jennifer@epa.gov

-----Original Appointment-----

**From:** Molloy, Jennifer  
**Sent:** Wednesday, March 15, 2017 10:02 AM  
**To:** Molloy, Jennifer; Kupchan, Simma; Bathersfield, Nizanna  
**Subject:** CAFO petition from F&WW et al  
**When:** Monday, March 20, 2017 10:30 AM-11:00 AM (UTC-05:00) Eastern Time (US & Canada).  
**Where:** DCRoomEast7203/DC-ICC-OWM

Attached is the relevant petition

Message

---

**From:** Kupchan, Simma [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=784E0AEA94A7485FA0435CC0CF5A62A5-SASHER]  
**Sent:** 3/20/2017 4:15:29 PM  
**To:** Molloy, Jennifer [molloy.jennifer@epa.gov]  
**Subject:** RE: CAFO petition from F&WW et al

Great. No rush.

Simma Kupchan  
Water Law Office  
US EPA Office of General Counsel  
William Jefferson Clinton Building North Room 7426Q  
(p) 202-564-3105

---

**From:** Molloy, Jennifer  
**Sent:** Monday, March 20, 2017 11:07 AM  
**To:** Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Subject:** RE: CAFO petition from F&WW et al

I'll come over there. Might be a minute or 2 late if my 3 o'clock runs the full half hour.

Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939  
[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

-----Original Appointment-----

**From:** Kupchan, Simma  
**Sent:** Monday, March 20, 2017 11:05 AM  
**To:** Molloy, Jennifer  
**Subject:** Accepted: CAFO petition from F&WW et al  
**When:** Monday, March 20, 2017 3:30 PM-4:00 PM (UTC-05:00) Eastern Time (US & Canada).  
**Where:**

Whatever you prefer! I owe you! Meeting in person might be nice, so you are welcome to come over here, but I am also happy to talk by phone.

## Appointment

---

**From:** Kupchan, Simma [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=784E0AEA94A7485FA0435CC0CF5A62A5-SASHER]  
**Sent:** 3/20/2017 3:05:28 PM  
**To:** Molloy, Jennifer [molloy.jennifer@epa.gov]  
**Subject:** Accepted: CAFO petition from F&WW et al  
**Start:** 3/20/2017 7:30:00 PM  
**End:** 3/20/2017 8:00:00 PM  
**Show Time As:** Busy

Whatever you prefer! I owe you! Meeting in person might be nice, so you are welcome to come over here, but I am also happy to talk by phone.

Message

---

**From:** Kupchan, Simma [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=784E0AEA94A7485FA0435CC0CF5A62A5-SASHER]  
**Sent:** 3/20/2017 3:00:39 PM  
**To:** Jennifer Molloy [Molloy.Jennifer@epa.gov]  
**Subject:** FW: CAFO petition from F&WW et al

Simma Kupchan  
Water Law Office  
US EPA Office of General Counsel  
William Jefferson Clinton Building North Room 7426Q  
(p) 202-564-3105

-----Original Appointment-----

**From:** Kupchan, Simma  
**Sent:** Sunday, March 19, 2017 5:51 PM  
**To:** Molloy, Jennifer  
**Subject:** New Time Proposed: CAFO petition from F&WW et al  
**When:** Monday, March 20, 2017 10:30 AM-11:00 AM (UTC-05:00) Eastern Time (US & Canada).  
**Where:** DCRoomEast7203/DC-ICC-OWM

I'm sorry; I just had an urgent meeting scheduled for 10:15.



## Appointment

---

**From:** Kupchan, Simma [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=784E0AEA94A7485FA0435CC0CF5A62A5-SASHER]  
**Sent:** 3/16/2017 6:00:38 PM  
**To:** Molloy, Jennifer [molloy.jennifer@epa.gov]  
**Subject:** Declined: CAFO petition from F&WW et al  
**Location:** DCRoomEast7203/DC-ICC-OWM  
**Start:** 3/16/2017 6:30:00 PM  
**End:** 3/16/2017 7:15:00 PM  
**Show Time As:** Busy

Moving to Monday per phone call. Thank you!

## Appointment

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**From:** Kupchan, Simma [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=784E0AEA94A7485FA0435CC0CF5A62A5-SASHER]  
**Sent:** 3/16/2017 4:20:51 PM  
**To:** MaryEllen Levine [levine.maryellen@epa.gov]

**Subject:** Simma/Mary Ellen Weekly Check In  
**Location:** Mary Ellen's office

**Start:** 3/20/2017 3:30:00 PM  
**End:** 3/20/2017 4:00:00 PM  
**Show Time As:** Tentative

**Recurrence:** Weekly  
every Wednesday from 3:00 PM to 3:30 PM  
**Required Attendees:** MaryEllen Levine

Hi Mary Ellen,

I will need to spend the afternoon on the CWR. I do want to check in with you briefly in the next few days about the CAFO petition, so have set this up for Monday. Feel free to reschedule if the time doesn't work. Thank you.

Simma

Message

---

**From:** Kupchan, Simma [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=784E0AEA94A7485FA0435CC0CF5A62A5-SASHER]  
**Sent:** 3/13/2017 4:16:12 PM  
**To:** O'Lone, Mary [olone.mary@epa.gov]  
**Subject:** RE: Petition to regulate CAFOs

# Ex. 5 Attorney Client (AC)

Simma Kupchan  
Water Law Office  
US EPA Office of General Counsel  
William Jefferson Clinton Building North Room 7426Q  
(p) 202-564-3105

---

**From:** O'Lone, Mary  
**Sent:** Monday, March 13, 2017 10:20 AM  
**To:** Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Subject:** Petition to regulate CAFOs

Simma-

I am sure you've seen this.

## Ex. 5 Attorney Client (AC)

<http://www.foodandwaterwatch.org/news/dozens-advocacy-groups-challenge-epa-factory-farm-pollution>

## Ex. 5 Attorney Client (AC)

Thanks, Mary

Mary M. O'Lone  
Civil Rights and Finance Law Office  
Office of General Counsel, US EPA  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
(202) 564-4992

Message

---

**From:** Kupchan, Simma [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=784E0AEA94A7485FA043CC0CF5A62A5-SASHER]  
**Sent:** 3/9/2017 2:47:04 PM  
**To:** Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Levine, MaryEllen [levine.maryellen@epa.gov]  
**Subject:** RE: Food & Water Watch et al petition

Sure. OWM just clarified that we hadn't received it yet – they heard about it and googled it. We will be receiving it soon, I'm sure.

Simma Kupchan  
Water Law Office  
US EPA Office of General Counsel  
William Jefferson Clinton Building North Room 7426Q  
(p) 202-564-3105

---

**From:** Neugeboren, Steven  
**Sent:** Wednesday, March 08, 2017 5:23 PM  
**To:** Kupchan, Simma <Kupchan.Simma@epa.gov>; Levine, MaryEllen <levine.maryellen@epa.gov>  
**Subject:** RE: Food & Water Watch et al petition

Can one of you mention at reg review tomorrow even though not on the agenda? Don't need much detail since we just got it. Thanks.

Steven Neugeboren  
Associate General Counsel  
Water Law Office  
Environmental Protection Agency  
202-564-5488

---

**From:** Kupchan, Simma  
**Sent:** Wednesday, March 08, 2017 5:06 PM  
**To:** Levine, MaryEllen <levine.maryellen@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>  
**Subject:** FW: Food & Water Watch et al petition

FYI – petition to revise the CAFO regulations.

Simma Kupchan  
Water Law Office  
US EPA Office of General Counsel  
William Jefferson Clinton Building North Room 7426Q  
(p) 202-564-3105

---

**From:** Bonnelycke, Nina  
**Sent:** Wednesday, March 08, 2017 5:02 PM  
**To:** Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Cc:** Molloy, Jennifer <molloy.jennifer@epa.gov>; Abrams, Nancy <Abrams.Nancy@epa.gov>  
**Subject:** Fw: Food & Water Watch et al petition

Just in case you haven't seen this yet.

~~~~~  
Nina J. Bonnelycke
Rural Branch, Water Permits Division
Office of Wastewater Management
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W., 4203M
Washington, D.C. 20460
(202)564-0764

From: Molloy, Jennifer
Sent: Wednesday, March 8, 2017 4:52 PM
To: Abrams, Nancy; Bonnelycke, Nina; Jones, Kristin; Subramanian, Hema; Utting, George; Ziobro, Joseph
Subject: Food & Water Watch et al petition

I haven't read it carefully, but I scanned it. It's interesting and also frustrating.

Jenny Molloy
U.S. EPA
Water Permits Division
202.564.1939
molloy.jennifer@epa.gov

Message

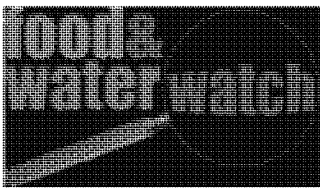
From: Kupchan, Simma [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=784E0AEA94A7485FA0435CC0CF5A62A5-SASHER]
Sent: 3/9/2017 2:57:18 PM
To: Steven Neugeboren [Neugeboren.Steven@epa.gov]; MaryEllen Levine [levine.maryellen@epa.gov]
Subject: FW: Food and Water Watch petition to EPA on CAFOs

FYI. Apparently it has been sent to the Agency.

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

From: Bonnelycke, Nina
Sent: Thursday, March 09, 2017 9:56 AM
To: Abrams, Nancy <Abrams.Nancy@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Jones, Kristin <jones.kristin@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Ziobro, Joseph <Ziobro.Joseph@epa.gov>
Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>; Nagle, Deborah <Nagle.Deborah@epa.gov>
Subject: Food and Water Watch petition to EPA on CAFOs

Here's the link to the press release and the petition: <https://www.foodandwaterwatch.org/news/advocates-urge-pruitts-epa-do-its-job>.



Advocates Urge Pruitt's EPA to Do Its Job

Rural communities demand protection from factory farms.



By Kate Fried

03.8.17

This week, nearly three dozen advocacy groups filed a petition with Scott Pruitt's EPA, asking the troubled agency to do more to protect communities from the environmental and public health nightmares associated with factory farming.

The petition could not have come at a more critical time. Reports emerged last week about President Trump's plans to gut the agency, cutting up to \$2 billion from its budget and sacrificing as many as 3,000 employees. Since the current administration took office, the EPA has been faced with unprecedented attacks from the very people who should be ensuring that it has the funding and staff it needs to keep communities safe from large scale, industrial factory farms, otherwise known as CAFOs.

This petition shows why the EPA's budget should be maintained so that the Agency can do its job to protect communities from polluting sources such as CAFOs. No matter who runs the EPA, it still has a mission to uphold.

The Threat of Factory Farms to Environment, Public Health

Most livestock in the U.S. are raised in factory farms, which can confine thousands, or even millions, of animals and their waste. Factory farms present a major environmental and public health threat. The vast quantities of manure generated by factory farms are typically disposed of, untreated, on cropland.

It is often up to communities to shoulder the costs of dealing with this mess, in the forms of contaminated drinking water, noxious air pollution, and foul manure runoff into streams. These streams feed into our major waterways, like the Chesapeake Bay, Great Lakes and Gulf of Mexico—contributing to dead zones that destroy aquatic ecosystems, recreation and livelihoods.

Factory farms have been a persistent problem in the U.S., and now with the decimation of the EPA, they're expected to get even worse. Under the Clean Water Act, discharging factory farms are required to have permits to limit and keep track of pollution. But only a fraction of factory farms, an estimated 40 percent, according to the EPA, actually have them, and their permits are ineffective due to lax regulations and almost non-existent enforcement. As a result, factory farms are ruining air and water quality in many communities, even though the EPA has a duty to protect public health and the environment. This petition asks EPA to close the loopholes so that polluting factory farms have permits and those permits protect our water ways.

How CAFOs Threaten Communities

Exactly how is CAFO pollution harmful? Naeema Muhammad, Co-Director and Community Organizer at the NC Environmental Justice Network described their effects as generating “acrid air” and “polluted water ways.”

“I have seen beautiful rivers turn green as a result of runoff from CAFOs,” added Earl Hatley, Oklahoma’s Grand Riverkeeper. “We clearly need stronger protections, because poultry waste is polluting Oklahoma’s rivers, streams and lakes.”

Former EPA employees are also taking note of the disaster percolating within the embattled agency. This week, William D. Ruckelshaus, who served as EPA administrator under Presidents Richard M. Nixon and Ronald Reagan, published an op-ed in the New York Times advocating in favor of an EPA that is empowered to protect communities.

Eric Schaeffer, executive director of the Environmental Integrity Project, who ran the EPA’s Office of Civil Enforcement under George W. Bush, and whose organization also signed-on to the petition remarked, “We are simply asking EPA to close loopholes and clarify existing Clean Water Act requirements, so that the agency can properly do its job and keep big animal feeding operations from polluting our nation’s waters. The Clean Water Act requirements set out by Congress are simple, but the application to factory farms has been a needlessly complex saga. The changes we seek will give us clear rules and cleaner water.”

Despite our current polarized political climate, everyone needs clean air and water. Those who support Trump and Pruitt’s agenda don’t want their children to breathe dirty air, or to drink disgusting water any more than those participating in the resistance do. That’s why it’s important to stand up to their dirty, divisive agenda.


~~~~~  
*Nina J. Bonnelycke*  
Rural Branch, Water Permits Division  
Office of Wastewater Management  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W., 4203M  
Washington, D.C. 20460  
(202)564-0764

## Appointment

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**From:** Molloy, Jennifer [molloy.jennifer@epa.gov]  
**Sent:** 3/16/2017 7:38:33 PM  
**To:** Molloy, Jennifer [molloy.jennifer@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]

**Subject:** CAFO petition from F&WW et al  
**Attachments:** citizens\_cafo\_cwa\_petition.pdf

**Start:** 3/20/2017 7:30:00 PM  
**End:** 3/20/2017 8:00:00 PM  
**Show Time As:** Busy

**Required Attendees:** Kupchan, Simma

No conference rooms over here, so I can either come there or we can do this via phone. Let me know.

Attached is the relevant petition

Message

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**From:** Levine, MaryEllen [levine.maryellen@epa.gov]  
**Sent:** 3/26/2021 1:04:45 PM  
**To:** Kupchan, Simma [Kupchan.Simma@epa.gov]; Messier, Dawn [Messier.Dawn@epa.gov]  
**Subject:** RE: Talking points for Dimple on ID CAFOs

I have reviewed

- *Mary Ellen*

Mary Ellen Levine  
Assistant General Counsel for Technology & Wet Weather  
Water Law Office, Office of General Counsel, U.S. EPA  
202 564-1345

---

**From:** Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Sent:** Thursday, March 25, 2021 5:37 PM  
**To:** Levine, MaryEllen <levine.maryellen@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>  
**Subject:** Talking points for Dimple on ID CAFOs

Thanks, Mary Ellen! Attached are the talking points Dimple asked me to prepare in advance of her Tuesday meeting

## Ex. 5 Attorney Work Product (AWP)

I will be able to check email sporadically tomorrow, and can incorporate any edits then. As a reminder, I will then be out of the office on Monday.

Once the talking points are complete, could one of you add them to the paper you give Dimple for her Tuesday Radhika meeting?

Thank you!

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

---

**From:** Levine, MaryEllen <levine.maryellen@epa.gov>  
**Sent:** Thursday, March 25, 2021 10:21 AM  
**To:** Messier, Dawn <Messier.Dawn@epa.gov>  
**Cc:** Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Subject:** Re: FYI -- I will be in training from 9 - 12:30pm today and tomorrow

On CAFO GP, Simma is doing bullets for Dimple's meeting with Radhika next week. They will be to mention why we

## Ex. 5 Attorney Work Product (AWP)

# Ex. 5 Attorney Work Product (AWP)

Mary Ellen Levine  
Assistant General Counsel  
Water Law Office  
(202) 564-1345  
Room 7510c WJC North

On Mar 25, 2021, at 9:53 AM, Messier, Dawn <Messier.Dawn@epa.gov> wrote:

Will check email intermittently – call me on Ex. 6 Personal Privacy (PP) you really need to reach me. Thanks!

## Appointment

---

**From:** Kupchan, Simma [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=784E0AEA94A7485FA0435CC0CF5A62A5-SASHER]  
**Sent:** 11/17/2020 2:39:09 PM  
**To:** George Utting [Utting.George@epa.gov]

**Subject:** CAFO petition  
**Location:** Skype Meeting

**Start:** 11/17/2020 8:30:00 PM  
**End:** 11/17/2020 9:00:00 PM  
**Show Time As:** Tentative

**Required Attendees:** George Utting

---

### Join Skype Meeting

Trouble Joining? [Try Skype Web App](#)

### Join by phone

Toll number: **Ex. 6 Personal Privacy (PP)**

English (United States)

[Find a local number](#)

Conference ID **Ex. 6 Personal Privacy (PP)**

[Forgot your dial-in PIN?](#) | [Help](#)

---

Message

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**From:** Kupchan, Simma [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=784E0AEA94A7485FA043CC0CF5A62A5-SASHER]  
**Sent:** 11/17/2020 1:40:08 PM  
**To:** Levine, MaryEllen [levine.maryellen@epa.gov]  
**Subject:** RE: CAFO Petitions before OW

I would be glad to discuss; let me know when is convenient for you or if I should set something up, and/or if you would like me to reach out to Carla.

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

---

**From:** Levine, MaryEllen <levine.maryellen@epa.gov>  
**Sent:** Tuesday, November 17, 2020 7:58 AM  
**To:** Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Subject:** RE: CAFO Petitions before OW

## Ex. 5 Attorney Client (AC)

- *Mary Ellen*

Mary Ellen Levine  
Assistant General Counsel  
Water Law Office, Office of General Counsel  
7510 C WJC North  
(202) 564-1345

---

**From:** Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Sent:** Monday, November 16, 2020 9:30 PM  
**To:** Levine, MaryEllen <levine.maryellen@epa.gov>  
**Subject:** FW: CAFO Petitions before OW

## Ex. 5 Attorney Client (AC)

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

**From:** Kupchan, Simma  
**Sent:** Monday, November 16, 2020 5:54 PM  
**To:** Levine, MaryEllen <[levine.maryellen@epa.gov](mailto:levine.maryellen@epa.gov)>  
**Cc:** Neugeboren, Steven <[Neugeboren.Steven@epa.gov](mailto:Neugeboren.Steven@epa.gov)>; Messier, Dawn <[Messier.Dawn@epa.gov](mailto:Messier.Dawn@epa.gov)>  
**Subject:** RE: CAFO Petitions before OW

## Ex. 5 Attorney Client (AC)

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

**From:** Levine, MaryEllen <[levine.maryellen@epa.gov](mailto:levine.maryellen@epa.gov)>  
**Sent:** Monday, November 16, 2020 5:44 PM  
**To:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>  
**Cc:** Neugeboren, Steven <[Neugeboren.Steven@epa.gov](mailto:Neugeboren.Steven@epa.gov)>; Messier, Dawn <[Messier.Dawn@epa.gov](mailto:Messier.Dawn@epa.gov)>  
**Subject:** RE: CAFO Petitions before OW

## Ex. 5 Attorney Client (AC)

- *Mary Ellen*

Mary Ellen Levine  
Assistant General Counsel  
Water Law Office, Office of General Counsel  
7510 C WJC North  
(202) 564-1345

**From:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>  
**Sent:** Monday, November 16, 2020 5:34 PM  
**To:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>; Levine, MaryEllen <[levine.maryellen@epa.gov](mailto:levine.maryellen@epa.gov)>  
**Subject:** RE: CAFO Petitions before OW

George,

# Ex. 5 Attorney Client (AC)

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

---

**From:** Utting, George <Utting.George@epa.gov>  
**Sent:** Monday, November 16, 2020 5:00 PM  
**To:** Kupchan, Simma <Kupchan.Simma@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>  
**Subject:** RE: CAFO Petitions before OW

Simma,

We have asked to prepare a response to the FWW Petition

**Ex. 5 Deliberative Process (DP)**

# Ex. 5 Attorney Client (AC)

Thanks!  
George

---

**From:** Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Sent:** Tuesday, July 21, 2020 1:27 PM  
**To:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>  
**Subject:** RE: CAFO Petitions before OW

Fine by me.

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

---

**From:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>  
**Sent:** Tuesday, July 21, 2020 1:24 PM  
**To:** Kupchan, Simma <Kupchan.Simma@epa.gov>; Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>  
**Subject:** RE: CAFO Petitions before OW



Thank you Simma.  
Andrew just asked for a copy of the response.  
Would it be okay to share?  
Thanks.

---

**From:** Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Sent:** Tuesday, July 21, 2020 12:19 PM  
**To:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>  
**Subject:** RE: CAFO Petitions before OW

Thanks, all. I proposed a few edits to the response to Anna, in strikethrough/red.

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

---

**From:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>  
**Sent:** Tuesday, July 21, 2020 11:57 AM  
**To:** Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>  
**Cc:** Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Subject:** RE: CAFO Petitions before OW

thank you all.

Marcus- I can reach out to Macara, not a problem.

Thanks.  
Maria

---

**From:** Utting, George <Utting.George@epa.gov>  
**Sent:** Tuesday, July 21, 2020 11:34 AM  
**To:** Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>  
**Cc:** Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Subject:** RE: CAFO Petitions before OW

I have more in the way of question/suggestions rather than specific edits.

First, I am not sure whether or not the Ag Advisor's office has been involved. When I went back to look, I only see that there was an email from the Smart Sectors Communications Director through Mary Schollhamer. I do not recall whether there was actual involvement with the Ag Advisor's office.

Second, with respect to the attachment, it is more than just a meeting summary. It is a summary of the issues raised in the petition and subsequent steps taken to engage with the petitioners.

I've highlighted where both of these issues occur below.

---

**From:** Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>

**Sent:** Tuesday, July 21, 2020 11:23 AM

**To:** Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

**Cc:** Kupchan, Simma <Kupchan.Simma@epa.gov>

**Subject:** RE: CAFO Petitions before OW

Hi,  
Suggesting a few additional edits to clarify that EPA has a few different websites focused on petitions.

---

Good Morning Anna:

EPA has two distinct website pages regarding petitions. If we recall correctly, the Water Policy branch Staff in OW is responsible for the other petition page at <https://www.epa.gov/aboutepa/petitions-office-water> but we would need to look into the website program area to determine the owner.

The withdrawal petition page is owned and updated by OWM. Because the two petitions listed below are not withdrawal petitions, they were not uploaded to the OWM withdrawal petition website.

Regarding the 2017 FWW petition:

- The EPA team has met with FWW several times regarding this petition. Attached you will find a meeting summary of the March 8, 2017 meeting with FWW.

## Ex. 5 Deliberative Process (DP)

- Most recently, the team worked with the Ag Advisor to provide a response to FWW regarding their pending petition this topic. We can share that response if you like.

## Ex. 5 Deliberative Process (DP)

---

**From:** Zobrist, Marcus <Zobrist.Marcus@epa.gov>

**Sent:** Tuesday, July 21, 2020 11:12 AM

**To:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

**Cc:** Kupchan, Simma <Kupchan.Simma@epa.gov>

**Subject:** RE: CAFO Petitions before OW

**From:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>  
**Sent:** Tuesday, July 21, 2020 10:56 AM  
**To:** Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>  
**Cc:** Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Subject:** RE: CAFO Petitions before OW

*Draft response below- please feel free to edit. Thanks.*

Good Morning Anna:

EPA has two distinct website pages regarding petitions:

1. The withdrawal petition page is owned and updated by OWM.
2. Because the two petitions listed below are not withdrawal petitions, they were not uploaded to the OWM withdrawal petition website.
3. If we recall correctly, the Water Policy branch in OW is responsible for the other petition page but we would need to look into the website program area to determine the owner.

Regarding the 2017 FWW petition:

- The EPA team has met with FWW several times regarding this petition. Attached you will find a meeting summary of the March 8, 2017 meeting with FWW.

## Ex. 5 Deliberative Process (DP)

- Most recently, the team worked with the Ag Advisor to provide a response to FWW regarding this topic. We can share that response if you like.

## Ex. 5 Deliberative Process (DP)

**From:** Molloy, Jennifer <molloy.jennifer@epa.gov>  
**Sent:** Tuesday, July 21, 2020 10:28 AM  
**To:** Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>  
**Cc:** Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Subject:** RE: CAFO Petitions before OW

Just wrapping in Simma and Marcus in case they want to add anything.

We did meet several times with FWW et al on the 2017 petition, so we did not ignore it. **Ex. 5 Deliberative Process (DP)**

## Ex. 5 Deliberative Process (DP)

Like George, I don't really remember the other one.

JennyH

Jenny Molloy

U.S. EPA  
Water Permits Division

**Ex. 6 Personal Privacy (PP)**  
[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

---

**From:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>  
**Sent:** Tuesday, July 21, 2020 10:19 AM  
**To:** Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>  
**Cc:** Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>  
**Subject:** RE: CAFO Petitions before OW

Maria,

We have worked on the 2017 Food & Water Watch petition. In fact, I think we recently responded to an email about it – maybe from the ag advisor's office.

**Ex. 5 Deliberative Process (DP)**

## Ex. 5 Deliberative Process (DP)

---

**From:** Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>  
**Sent:** Tuesday, July 21, 2020 10:13 AM  
**To:** Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>  
**Cc:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>  
**Subject:** RE: CAFO Petitions before OW

Looping in Jenny. I don't know what the status of these are but these would have been assigned to the Industrial Branch since they aren't withdrawal petitions but instead focus on EPA's CAFO program requirements. I was aware of the Food and Water Watch petition [ there were some discussions when it came in] but I hadn't heard about the Buffalo River Alliance one.

---

**From:** Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>  
**Sent:** Tuesday, July 21, 2020 10:02 AM  
**To:** Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>  
**Cc:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>  
**Subject:** FW: CAFO Petitions before OW

Good Morning Nizanna and Kevin:

Please see request below from Anna. Do you all have information on these petitions?

Adding George since its CAFO and maybe he has some knowledge on this.

Thank you  
Maria

---

**From:** Sawyers, Andrew <[Sawyers.Andrew@epa.gov](mailto:Sawyers.Andrew@epa.gov)>  
**Sent:** Tuesday, July 21, 2020 9:29 AM

**To:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Kloss, Christopher <Kloss.Christopher@epa.gov>  
**Cc:** Miller, Wynne <Miller.Wynne@epa.gov>; Sylvester, Francis <Sylvester.Francis@epa.gov>; Sylvester, Francis <Sylvester.Francis@epa.gov>  
**Subject:** FW: CAFO Petitions before OW

Hello Maria and Chris, please see the request from Anna below. Please let me know what you find out – thanks.

---

**From:** Wildeman, Anna <wildeman.anna@epa.gov>  
**Sent:** Tuesday, July 21, 2020 9:26 AM  
**To:** Sawyers, Andrew <Sawyers.Andrew@epa.gov>  
**Cc:** Aguirre, Janita <Aguirre.Janita@epa.gov>  
**Subject:** FW: CAFO Petitions before OW

Andrew, can you find out for me if EPA responded to these two petitions? If yes, can you please send me our responses. If no, can you let me know if something is in process? Also see Tom's question below on the FWW petition—should it be on our website?

Thanks,  
Anna

---

**From:** Thomas Hebert <tom.hebert@bayardridge.com>  
**Sent:** Tuesday, July 21, 2020 9:20 AM  
**To:** Wildeman, Anna <wildeman.anna@epa.gov>  
**Subject:** CAFO Petitions before OW

Hi Anna,

Below are two petitions. The first by Food and Water Watch et al (2017) is referenced in this story on their website: <https://www.foodandwaterwatch.org/news/dozens-advocacy-groups-challenge-epa-factory-farm-pollution>. If you Google the topic you will find several versions of this same story. To my great surprise, the 2017 petition is **not** listed on the OW website. (<https://www.epa.gov/aboutepa/petitions-office-water>). Food and Water watch says they filed it, there are dozens of reviews in the legal trade press about it, but it is not on your website? I can find no reference in the press, etc. to this 2017 petition being “withdrawn.” I am puzzled.

The second one (2015) is on your website.

I will be interested in hearing what you find out about both of these.

1. <https://buffaloriveralliance.org/resources/Pictures/citizens%20cafo%20cwa%20petition.pdf>
2. [https://www.epa.gov/sites/production/files/2016-09/documents/cwa\\_cafo\\_ebrotzman\\_9\\_2015.pdf](https://www.epa.gov/sites/production/files/2016-09/documents/cwa_cafo_ebrotzman_9_2015.pdf)

Best!

Tom

Message

---

**From:** Kupchan, Simma [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=784E0AEA94A7485FA0435CC0CF5A62A5-SASHER]  
**Sent:** 7/10/2018 7:58:26 PM  
**To:** Utting, George [Utting.George@epa.gov]; Brennan, Ross [Brennan.Ross@epa.gov]  
**CC:** MaryEllen Levine [levine.maryellen@epa.gov]  
**Subject:** RE: Brfg document for Sally on FWW petition  
**Attachments:** Summary - FWW Petition \_ gu sak.docx

(CC'ing Mary Ellen, who was interested in attending, if that's okay.)

Thanks, George. I just made some edits to the first bullet to provide additional background.

# Ex. 5 Attorney Client (AC)

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
202-564-3105  
WJC North #7426Q

---

**From:** Utting, George  
**Sent:** Tuesday, July 10, 2018 2:28 PM  
**To:** Brennan, Ross <Brennan.Ross@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Subject:** RE: Brfg document for Sally on FWW petition

Sorry guys . . . use this draft.

---

**From:** Utting, George  
**Sent:** Tuesday, July 10, 2018 2:23 PM  
**To:** Ross Brennan <Brennan.Ross@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Subject:** Brfg document for Sally on FWW petition

For tomorrow's briefing for Sally on the petition.

Ross did the main document. I added the bullets on our thinking about each of the items for which FWW is requesting relief.

Let me know what you think .

Message

---

**From:** Kupchan, Simma [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=784E0AEA94A7485FA0435CC0CF5A62A5-SASHER]  
**Sent:** 11/19/2020 5:21:21 PM  
**To:** Utting, George [Utting.George@epa.gov]; Bathersfield, Nizanna [Bathersfield.Nizanna@epa.gov]; Zobrist, Marcus [Zobrist.Marcus@epa.gov]  
**Subject:** RE: draft talking points  
**Attachments:** Talking Points for Andrew about CAFO Petitions 11.19.docx

All,

# Ex. 5 Attorney Client (AC)

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

---

**From:** Utting, George <Utting.George@epa.gov>  
**Sent:** Wednesday, November 18, 2020 3:24 PM  
**To:** Kupchan, Simma <Kupchan.Simma@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>  
**Subject:** RE: draft talking points

I agree, too. I'm hoping to have my chart done today or first thing tomorrow. I'm past the halfway mark, but 2-hour 401 call is occupying my attention right now. I'm assuming a difference of several "work hours" won't make that much of a difference with OST/OECA, and the chart will help to address questions they might have and save them some time trying to work through the petitions.

Simma, are you ok with the latest version of the talking points?

---

**From:** Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Sent:** Wednesday, November 18, 2020 3:21 PM  
**To:** Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Utting, George <Utting.George@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>  
**Subject:** RE: draft talking points

I agree; that would be very helpful.

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office

WJC North Building # 7426Q  
202-564-3105

---

**From:** Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>  
**Sent:** Wednesday, November 18, 2020 3:17 PM  
**To:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>  
**Cc:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>  
**Subject:** RE: draft talking points

Thanks, George.

## Ex. 5 Attorney Client (AC)

-Nizanna

Nizanna Bathersfield  
Attorney Adviser  
US EPA  
Office of Water  
OWM/WPD  
202.564.2258

---

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---

**From:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>  
**Sent:** Wednesday, November 18, 2020 10:31 AM  
**To:** Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>  
**Cc:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>  
**Subject:** RE: draft talking points

Actually, I think I will hold off on sharing with OST/OECA until I have the FWW table done. I am making good progress on it, and I think they will benefit from seeing a summary of their likely involvement. Meanwhile, I have revised the talking points to address your markups, including some additional rewrites. Let me know what you think.

---

**From:** Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>  
**Sent:** Wednesday, November 18, 2020 10:05 AM  
**To:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>  
**Subject:** RE: draft talking points

Will do.

---

**From:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>  
**Sent:** Wednesday, November 18, 2020 9:19 AM



**To:** Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>

**Subject:** RE: draft talking points

Ok. Will do. Yes, we should inform OST and OECA. I will share it with Paul Shriner and Kathy Greenwald. You may want to let their managers know.

---

**From:** Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>

**Sent:** Wednesday, November 18, 2020 9:15 AM

**To:** Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>

**Subject:** RE: draft talking points

Thank you Nizanna, very helpful comments.

George, I leave it to you to address Nizanna's and my comments, and add the list of issues raises in these petitions. Next step would be to get Simma's review. Should we also get a review, or at least create awareness of the potential workload that this may be for OST and OECA?

---

**From:** Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>

**Sent:** Tuesday, November 17, 2020 6:35 PM

**To:** Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>

**Subject:** RE: draft talking points

Hi Marcus and George,

I made a few edits and comments for consideration.

Thank you for the opportunity to review!

Nizanna

Nizanna Bathersfield

Attorney Adviser

US EPA

Office of Water

OWM/WPD

202.564.2258

---

PRIVILEGE/CONFIDENTIALITY NOTICE: This communication, including any attachment, contains information that may be confidential or privileged, and is intended solely for the individual or entity to whom it is addressed. If you are not the intended recipient, please notify the sender at once and you should delete this message. You are hereby notified that disclosure, copying or distribution of this message is strictly prohibited.

---

**From:** Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>

**Sent:** Tuesday, November 17, 2020 5:32 PM

**To:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>

**Cc:** Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>

**Subject:** RE: draft talking points

George,

Thanks for drafting these – I think it is a good start. I've added some comments in the attached, I'll ask you and Nizanna to take a look and then we can ask for Simma to review.

---

**From:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>

**Sent:** Tuesday, November 17, 2020 2:53 PM

**To:** Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>

**Subject:** draft talking points

Marcus,

Take a look if you can. I can run them by Simma when I talk with her. Let me know if you would like something else, instead, or have any other points you would like to add.

GU

Message

---

**From:** Levine, MaryEllen [levine.maryellen@epa.gov]  
**Sent:** 11/17/2020 4:39:03 PM  
**To:** Kupchan, Simma [Kupchan.Simma@epa.gov]; Utting, George [Utting.George@epa.gov]; Lopez-Carbo, Maria [Lopez-Carbo.Maria@epa.gov]; Bathersfield, Nizanna [Bathersfield.Nizanna@epa.gov]; Zobrist, Marcus [Zobrist.Marcus@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Weiss, Kevin [Weiss.Kevin@epa.gov]  
**CC:** Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Messier, Dawn [Messier.Dawn@epa.gov]  
**Subject:** RE: CAFO Rulemaking Petitions before OW  
**Attachments:** Response to NRDC re Petition 12-14-12.pdf

Hi everyone,

# Ex. 5 Attorney Client (AC)

<Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

**Subject:** RE: CAFO Petitions before OW

# Ex. 5 Attorney Client (AC)

# **Ex. 5 Attorney Client (AC)**

# **Ex. 5 Attorney Client (AC)**

# **Ex. 5 Deliberative Process (DP)**

# **Ex. 5 Deliberative Process (DP)**



# **Ex. 5 Deliberative Process (DP)**

# **Ex. 5 Deliberative Process (DP)**

# **Ex. 5 Deliberative Process (DP)**

# **Ex. 5 Deliberative Process (DP)**

## Appointment

---

**From:** Microsoft Outlook [MicrosoftExchange329e71ec88ae4615bbc36ab6ce41109e@usepa.onmicrosoft.com]  
**Sent:** 11/17/2020 3:50:01 PM  
**To:** Kupchan, Simma [Kupchan.Simma@epa.gov]

**Subject:** Meeting Forward Notification: CAFO petition  
**Location:** Skype Meeting

**Start:** 11/17/2020 8:30:00 PM  
**End:** 11/17/2020 9:00:00 PM

**Recurrence:** (none)

### Your meeting was forwarded

Utting, George has forwarded your meeting request to additional recipients.

Meeting

CAFO petition

Meeting Time

Tuesday, November 17, 2020 3:30 PM-4:00 PM.

Recipients

Zobrist, Marcus

Bathersfield, Nizanna

All times listed are in the following time zone: (UTC-05:00) Eastern Time (US & Canada)

---

Sent by Microsoft Exchange Server

Message

---

**From:** Levine, MaryEllen [levine.maryellen@epa.gov]  
**Sent:** 7/10/2018 8:35:23 PM  
**To:** Kupchan, Simma [Kupchan.Simma@epa.gov]  
**Subject:** RE: Brfg document for Sally on FWW petition

Can you resend me the petition also?

- *Mary Ellen*

Mary Ellen Levine  
Assistant General Counsel  
Water Law Office, Office of General Counsel  
7510 C WJC North  
(202) 564-1345

---

**From:** Kupchan, Simma  
**Sent:** Tuesday, July 10, 2018 3:58 PM  
**To:** Utting, George <Utting.George@epa.gov>; Brennan, Ross <Brennan.Ross@epa.gov>  
**Cc:** Levine, MaryEllen <levine.maryellen@epa.gov>  
**Subject:** RE: Brfg document for Sally on FWW petition

# Ex. 5 Attorney Client (AC)

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
202-564-3105  
WJC North #7426Q

---

**From:** Utting, George  
**Sent:** Tuesday, July 10, 2018 2:28 PM  
**To:** Brennan, Ross <Brennan.Ross@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Subject:** RE: Brfg document for Sally on FWW petition

Sorry guys . . . use this draft.

---

**From:** Utting, George

**Sent:** Tuesday, July 10, 2018 2:23 PM

**To:** Ross Brennan <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>; Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>

**Subject:** Brfg document for Sally on FWW petition

For tomorrow's briefing for Sally on the petition.

Ross did the main document. I added the bullets on our thinking about each of the items for which FWW is requesting relief.

Let me know what you think .

Message

---

**From:** Utting, George [Utting.George@epa.gov]  
**Sent:** 7/10/2018 6:23:31 PM  
**To:** Brennan, Ross [Brennan.Ross@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]  
**Subject:** Brfg document for Sally on FWW petition  
**Attachments:** Summary - FWW Petition \_ gu.docx

For tomorrow's briefing for Sally on the petition.

Ross did the main document. I added the bullets on our thinking about each of the items for which FWW is requesting relief.

Let me know what you think .



Message

**From:** Utting, George [Utting.George@epa.gov]  
**Sent:** 11/19/2020 5:41:15 PM  
**To:** Kupchan, Simma [Kupchan.Simma@epa.gov]; Bathersfield, Nizanna [Bathersfield.Nizanna@epa.gov]; Zobrist, Marcus [Zobrist.Marcus@epa.gov]  
**Subject:** RE: draft talking points

Yes. My intention is that it would be for internal review purposes. I have tried to balance an accurate summarization of the issues with key points that need to play into any meaningful response. That said, some of it is presented in a shorthand way of trying to convey complex issues in simple bites.

## Ex. 5 Deliberative Process (DP)

**From:** Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Sent:** Thursday, November 19, 2020 12:33 PM  
**To:** Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>  
**Subject:** RE: draft talking points

Thanks, George! Just to be clear, Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP) I think I'll defer to you on this – a quick glance at it looks fine, and I don't think I need to weigh in at this stage. Let me know if you think it will be shared with OGC leadership, though, and I'll review more closely.

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

**From:** Utting, George <Utting.George@epa.gov>  
**Sent:** Thursday, November 19, 2020 12:26 PM  
**To:** Kupchan, Simma <Kupchan.Simma@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>  
**Subject:** RE: draft talking points

Here is my draft appendix. The chart is my rough draft of the issues raised in the petition, the regulatory context, the offices that would need to engage (prioritized for each topical area), and other comments that are intended to elaborate on the various issues involved. Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

## Ex. 5 Deliberative Process (DP)

I just saw Simma's email. It arrived as I was typing this. I'll take a look at those edits, while you take a look at this. Thanks for the info about David.

gu

---

**From:** Utting, George

**Sent:** Wednesday, November 18, 2020 3:24 PM

**To:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>; Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>

**Subject:** RE: draft talking points

I agree, too. I'm hoping to have my chart done today or first thing tomorrow. I'm past the halfway mark, but 2-hour 401 call is occupying my attention right now. I'm assuming a difference of several "work hours" won't make that much of a difference with OST/OECA, and the chart will help to address questions they might have and save them some time trying to work through the petitions.

Simma, are you ok with the latest version of the talking points?

---

**From:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>

**Sent:** Wednesday, November 18, 2020 3:21 PM

**To:** Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>

**Subject:** RE: draft talking points

I agree; that would be very helpful.

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

---

**From:** Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>

**Sent:** Wednesday, November 18, 2020 3:17 PM

**To:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>

**Cc:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>

**Subject:** RE: draft talking points

Thanks, George.

## Ex. 5 Deliberative Process (DP)

-Nizanna

Nizanna Bathersfield  
Attorney Adviser  
US EPA  
Office of Water  
OWM/WPD

---

PRIVILEGE/CONFIDENTIALITY NOTICE: This communication, including any attachment, contains information that may be confidential or privileged, and is intended solely for the individual or entity to whom it is addressed. If you are not the intended recipient, please notify the sender at once and you should delete this message. You are hereby notified that disclosure, copying or distribution of this message is strictly prohibited.

---

**From:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>  
**Sent:** Wednesday, November 18, 2020 10:31 AM  
**To:** Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>  
**Cc:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>  
**Subject:** RE: draft talking points

Actually, I think I will hold off on sharing with OST/OECA until I have the FWW table done. I am making good progress on it, and I think they will benefit from seeing a summary of their likely involvement. Meanwhile, I have revised the talking points to address your markups, including some additional rewrites. Let me know what you think.

---

**From:** Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>  
**Sent:** Wednesday, November 18, 2020 10:05 AM  
**To:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>  
**Subject:** RE: draft talking points

Will do.

---

**From:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>  
**Sent:** Wednesday, November 18, 2020 9:19 AM  
**To:** Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>  
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Ok. Will do. Yes, we should inform OST and OECA. I will share it with Paul Shriner and Kathy Greenwald. You may want to let their managers know.

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**From:** Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>  
**Sent:** Wednesday, November 18, 2020 9:15 AM  
**To:** Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>  
**Subject:** RE: draft talking points

Thank you Nizanna, very helpful comments.

George, I leave it to you to address Nizanna's and my comments, and add the list of issues raises in these petitions. Next step would be to get Simma's review. Should we also get a review, or at least create awareness of the potential workload that this may be for OST and OECA?

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**From:** Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>  
**Sent:** Tuesday, November 17, 2020 6:35 PM  
**To:** Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>  
**Subject:** RE: draft talking points

Hi Marcus and George,

I made a few edits and comments for consideration.

Thank you for the opportunity to review!

Nizanna

Nizanna Bathersfield  
Attorney Adviser  
US EPA  
Office of Water  
OWM/WPD  
202.564.2258

---

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---

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**Sent:** Tuesday, November 17, 2020 5:32 PM  
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**Subject:** RE: draft talking points

George,

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**From:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>  
**Sent:** Tuesday, November 17, 2020 2:53 PM  
**To:** Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>  
**Subject:** draft talking points

Marcus,

Take a look if you can. I can run them by Simma when I talk with her. Let me know if you would like something else, instead, or have any other points you would like to add.

GU

Message

---

**From:** Utting, George [Utting.George@epa.gov]  
**Sent:** 11/19/2020 5:34:18 PM  
**To:** Kupchan, Simma [Kupchan.Simma@epa.gov]; Bathersfield, Nizanna [Bathersfield.Nizanna@epa.gov]; Zobrist, Marcus [Zobrist.Marcus@epa.gov]  
**Subject:** RE: draft talking points

# Ex. 5 Attorney Client (AC)

---

**From:** Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Sent:** Thursday, November 19, 2020 12:21 PM  
**To:** Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>  
**Subject:** RE: draft talking points

All,

# Ex. 5 Attorney Client (AC)

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

---

**From:** Utting, George <Utting.George@epa.gov>  
**Sent:** Wednesday, November 18, 2020 3:24 PM  
**To:** Kupchan, Simma <Kupchan.Simma@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>  
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I agree, too. I'm hoping to have my chart done today or first thing tomorrow. I'm past the halfway mark, but 2-hour 401 call is occupying my attention right now. I'm assuming a difference of several "work hours" won't make that much of a difference with OST/OECA, and the chart will help to address questions they might have and save them some time trying to work through the petitions.

Simma, are you ok with the latest version of the talking points?

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**Cc:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>  
**Subject:** RE: draft talking points

Thanks, George.

## Ex. 5 Deliberative Process (DP)

-Nizanna

Nizanna Bathersfield  
Attorney Adviser  
US EPA  
Office of Water  
OWM/WPD  
202.564.2258

---

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**Subject:** draft talking points

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GU



Message

---

**From:** Kupchan, Simma [kupchan.simma@epa.gov]  
**Sent:** 11/17/2020 8:51:48 PM  
**To:** Bathersfield, Nizanna [Bathersfield.Nizanna@epa.gov]; Guest [Guest@epa.gov]; Guest [Guest@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]  
**Subject:** CAFO petition

## Appointment

---

**From:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Sent:** 5/15/2017 3:10:45 PM  
**To:** Nagle, Deborah [Nagle.Deborah@epa.gov]; Brennan, Ross [Brennan.Ross@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Utting, George [Utting.George@epa.gov]; Bonnelycke, Nina [Bonnelycke.Nina@epa.gov]; Tarah Heinzen [theinzen@fwwatch.org]; Shenk, Kelly [shenk.kelly@epa.gov]; Wood, Robert [Wood.Robert@epa.gov]; Goodwin, Janet [Goodwin.Janet@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]; Levine, MaryEllen [levine.maryellen@epa.gov]  
**CC:** Sarah Geers [sgeers@midwestadvocates.org]; Michele Merkel [mmerkel@fwwatch.org]; Scott Edwards [sedwards@fwwatch.org]; Terry, Jennifer [terry@dmww.com]; Robert Martin [rmarti57@jhu.edu]; Paul Hinson [hinsonpr@epa.gov]; Adam Kron [akron@environmentalintegrity.org]; Zipf, Lynn [Zipf.Lynn@epa.gov]  
**Subject:** CAFO CWA Petition  
**Attachments:** REAL ID Information 07-28-14.docx  
**Location:** 1201 Constitution Avenue, N.W., Room 7217, William Jefferson Clinton Building; Dial in: [Ex. 6 Personal Privacy (PP)] Passcode: [Ex. 6 Personal Privacy (PP)]  
**Start:** 5/17/2017 6:00:00 PM  
**End:** 5/17/2017 7:00:00 PM  
**Show Time As:** Busy

**Required Attendees:** Nagle, Deborah; Brennan, Ross; Molloy, Jennifer; Utting, George; Bonnelycke, Nina; Tarah Heinzen; Shenk, Kelly; Wood, Robert; Shriner, Paul; Goodwin, Janet; Kupchan, Simma; Levine, MaryEllen  
**Optional Attendees:** Sarah Geers; Michele Merkel; Scott Edwards; Terry, Jennifer; cruisermomii; Robert Martin; Paul Hinson; Adam Kron; Zipf, Lynn

Our office is located at 1201 Constitution Avenue, N.W., Washington, DC (Federal Triangle Metro stop). The entrance is on Constitution Avenue near the corner of 12<sup>th</sup> & Constitution Avenue, N.W. Once you arrive at the building, please present your identification to the Security Guard (please see attachment for proper identification). After completing the security procedures, please ask the guard to call 202-564-8478 (DeMara Magruder) so that someone can come down to escort you to the conference room.

Information for attendees who will be calling into the meeting:

Dial In: [Ex. 6 Personal Privacy (PP)]  
Passcode: [Ex. 6 Personal Privacy (PP)]

Thank you.

## Appointment

---

**From:** Kupchan, Simma [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=784E0AEA94A7485FA0435CC0CF5A62A5-SASHER]  
**Sent:** 11/17/2020 2:39:15 PM  
**To:** Kupchan, Simma [Kupchan.Simma@epa.gov]; George Utting [Utting.George@epa.gov]  
**CC:** Marcus Zobrist (Zobrist.Marcus@epa.gov) [Zobrist.Marcus@epa.gov]; Bathersfield, Nizanna [Bathersfield.Nizanna@epa.gov]; Saxena, Juhi [Saxena.Juhi@epa.gov]  
**Subject:** CAFO petition  
**Location:** Skype Meeting  
**Start:** 11/17/2020 8:30:00 PM  
**End:** 11/17/2020 9:00:00 PM  
**Show Time As:** Busy

**Required Attendees:** Kupchan, Simma; George Utting  
**Optional Attendees:** Marcus Zobrist (Zobrist.Marcus@epa.gov); Bathersfield, Nizanna; Saxena, Juhi

---

### Join Skype Meeting

Trouble Joining? [Try Skype Web App](#)

### Join by phone

Toll number: **Ex. 6 Personal Privacy (PP)**  
[Find a local number](#)

English (United States)

Conference ID: **Ex. 6 Personal Privacy (PP)**  
[Forgot your dial-in PIN?](#) | [Help](#)

---

## Appointment

---

**From:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Sent:** 5/15/2017 3:10:46 PM  
**To:** Nagle, Deborah [Nagle.Deborah@epa.gov]; Brennan, Ross [Brennan.Ross@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Utting, George [Utting.George@epa.gov]; Bonnelycke, Nina [Bonnelycke.Nina@epa.gov]; Tarah Heinzen [theinzen@fwwatch.org]; Shenk, Kelly [shenk.kelly@epa.gov]; Wood, Robert [Wood.Robert@epa.gov]; Goodwin, Janet [Goodwin.Janet@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]; Levine, MaryEllen [levine.maryellen@epa.gov]  
**CC:** Sarah Geers [sgeers@midwestadvocates.org]; Michele Merkel [mmerkel@fwwatch.org]; Scott Edwards [sedwards@fwwatch.org]; Terry, Jennifer [terry@dmww.com]; Robert Martin [rmarti57@jhu.edu]; Paul Hinson [hinsonpr@gmail.com]; Adam Kron [akron@environmentalintegrity.org]; Zipf, Lynn [Zipf.Lynn@epa.gov]  
**Subject:** CAFO CWA Petition  
**Location:** 1201 Constitution Avenue, N.W., Room 7217, William Jefferson Clinton Building; Dial in: 1-866-299-3188; Passcode: 2025641185#  
**Start:** 5/17/2017 6:00:00 PM  
**End:** 5/17/2017 7:00:00 PM  
**Show Time As:** Busy

**Required Attendees:** Nagle, Deborah; Brennan, Ross; Molloy, Jennifer; Utting, George; Bonnelycke, Nina; Tarah Heinzen; Shenk, Kelly; Wood, Robert; Shriner, Paul; Goodwin, Janet; Kupchan, Simma; Levine, MaryEllen  
**Optional Attendees:** Sarah Geers; Michele Merkel; Scott Edwards; Terry, Jennifer; cruisermomii; Robert Martin; Paul Hinson; Adam Kron; Zipf, Lynn

## Appointment

---

**From:** Levine, MaryEllen [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=F59EF87B9924425897C750435BAD5522-MLEVINE]  
**Sent:** 5/15/2017 4:27:25 PM  
**To:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Subject:** Accepted: CAFO CWA Petition  
**Location:** 1201 Constitution Avenue, N.W., Room 7217, William Jefferson Clinton Building; Dial in: 1-866-299-3188; Passcode: 2025641185#  
**Start:** 5/17/2017 6:00:00 PM  
**End:** 5/17/2017 7:00:00 PM  
**Recurrence:** (none)

Message

---

**From:** Horwitz, Sylvia [Horwitz.Sylvia@epa.gov]  
**Sent:** 3/27/2017 4:21:37 PM  
**To:** Levine, MaryEllen [levine.maryellen@epa.gov]  
**Subject:** RE: Reminder today there is a Month Water Legal Issues Video/Call-In

I'd like to mention the RDA case too!

Sylvia Horwitz  
Office of General Counsel  
Water Law Office  
WJC North 7353H  
Phone: 202-564-5511

---

**From:** Levine, MaryEllen  
**Sent:** Monday, March 27, 2017 11:01 AM  
**To:** Kramer, Kim <Kramer.Kim@epa.gov>; Weekley, Erin <weekley.erin@epa.gov>; Haskins, Antonio <Haskins.Antonio@epa.gov>; Steiner-Riley, Cara <Steiner-Riley.Cara@epa.gov>; Shepherdson, Melanie <Shepherdson.Melanie@epa.gov>; Bunch, Howard <Bunch.Howard@epa.gov>; Dart, Denny <Dart.Denny@epa.gov>; Schaner, Greg <Schaner.Greg@epa.gov>; Weber, Courtney <Weber.Courtney@epa.gov>; Byrne, Jennifer <Byrne.Jennifer@epa.gov>; Bartlett, Deane <Bartlett.Deane@epa.gov>; Rivera, Nina <Rivera.Nina@epa.gov>; Breedlove, Dan <Breedlove.Dan@epa.gov>; Campbell, Rich <Campbell.Rich@epa.gov>; Kao, Jessica <Kao.Jessica@epa.gov>; Dain, Gregory <Dain.Greg@epa.gov>; Williams, Ann <Williams.Ann@epa.gov>; Rose, Cheryl <Rose.Cheryl@epa.gov>; Mills, Flaire <Mills.Flaire@epa.gov>; Bahk, Benjamin <Bahk.Benjamin@epa.gov>; Moffatt, Brett <Moffatt.Brett@epa.gov>; VonVacano, Marcela <VonVacano.Marcela@epa.gov>; Humphrey, Leslie <Humphrey.Leslie@epa.gov>; Bagley, Melissa <Bagley.Melissa@epa.gov>; Magnuson, Janet <Magnuson.Janet@epa.gov>; Hudiburgh, Gary <Hudiburgh.Gary@epa.gov>; Cantello, Nicole <cantello.nicole@epa.gov>; Hall, Alexander <Hall.Alexander@epa.gov>; Field, Stephen <Field.Stephen@epa.gov>; Utting, George <Utting.George@epa.gov>; Cozad, David <Cozad.David@epa.gov>; Kermish, Laurie <Kermish.Laurie@epa.gov>; Klassman, Debra <klassman.debra@epa.gov>; Sweeney, Stephen <Sweeney.Stephen@epa.gov>; OGC WLO <OGC\_WLO@epa.gov>; Ghosh, Mita <Ghosh.Mita@epa.gov>; Miller, Patricia G. <Miller.Patriciag@epa.gov>; Szalay, Endre <Szalay.Endre@epa.gov>; Allnutt, David <Allnutt.David@epa.gov>; Shamet, Stefania <Shamet.Stefania@epa.gov>; Muller, Sheldon <Muller.Sheldon@epa.gov>; Rice, Cassandra <rice.cassandra@epa.gov>; Bearley, Mia <Bearley.Mia@epa.gov>; Tierney, Cate <Tierney.Cate@epa.gov>; Saporita, Chris <Saporita.Chris@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Huston, Liz <Huston.Liz@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>; Gillespie, David <Gillespie.David@epa.gov>; Stein, Mark <Stein.Mark@epa.gov>; Branigan, Terence <Branigan.Terence@epa.gov>; Roose, Rebecca <Roose.Rebecca@epa.gov>; Drelich, David <Drelich.David@epa.gov>; Flannery-Keith, Erin <Flannery-Keith.Erin@epa.gov>; Perkins, Angela <perkins.angela@epa.gov>; Galavotti, Holly <Galavotti.Holly@epa.gov>; Silver, Wendy <Silver.Wendy@epa.gov>; Feinmark, Phyllis <Feinmark.Phyllis@epa.gov>; Kopf, Jeff <Kopf.Jeff@epa.gov>; Brantner, Kelly A. <Brantner.Kelly@epa.gov>; Livingston, Peggy <Livingston.Peggy@epa.gov>; Fentress, Robert <Fentress.Robert@epa.gov>; Ryland, Renea <Ryland.Renea@epa.gov>; Vinch, James <Vinch.James@epa.gov>  
**Cc:** Knorr, Michele <knorr.michele@epa.gov>; R7 Roomsetup AV Helpdesk <r7-RoomSetup-AV-Helpdesk@epa.gov>; Stigler, Terrance <Stigler.Terrance@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>; Engelman, Alexa <ENGELMAN.ALEXA@EPA.GOV>; Mullings, Brandon <Mullings.Brandon@epa.gov>; Dean, Abigail <Dean.Abigail@epa.gov>; Glazer, Thomas <glazer.thomas@epa.gov>; Wightman, Katrina <Wightman.Katrina@epa.gov>; Greenblum, Max <greenblum.max@epa.gov>; Wade, Alexis <Wade.Alexis@epa.gov>; Perkins, Erin <Perkins.Erin@epa.gov>; Darman, Leslie <Darman.Leslie@epa.gov>; Frey, Bert <frey.bertram@epa.gov>; Morris, Brenda <Morris.Brenda@epa.gov>; Lawrence, Chad <Lawrence.Chad@epa.gov>; Lee, Michael <lee.michaelg@epa.gov>; Eskridge, Willie <eskridge.willie@epa.gov>; Berol, David <Berol.David@epa.gov>; Volk, Everett <volk.everett@epa.gov>; Zomer, Jessica <Zomer.Jessica@epa.gov>; Horwitz, Sylvia

<Horwitz.Sylvia@epa.gov>; Day, Christopher <Day.Christopher@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>; Curtin, James <curtin.james@epa.gov>; Wagner, Michael <wagner.michael@epa.gov>; Prabhu, Aditi <Prabhu.Aditi@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Hook, Robert <Hook.Robert@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>; Gable, Kelly <Gable.Kelly@epa.gov>; Moreno, Sarah <moreno.sarah@epa.gov>; Mikalian, Charles <mikalian.charles@epa.gov>; Carlson, Deborah <carlson.deboraha@epa.gov>; Nalven, Heidi <Nalven.Heidi@epa.gov>; Pechulis, Kevin <Pechulis.Kevin@epa.gov>; Engelmann, Robert <Engelmann.Robert@epa.gov>; Schroer, Lee <schroer.lee@epa.gov>; Thurmon, Clarke <Thurmon.Clarke@epa.gov>; Seabury, Nacente <seabury.nacente@epa.gov>; Bieri, Britt <bieri.britt@epa.gov>; McCoin, Shane <mccoin.shane@epa.gov>; Denawa, Mai <Denawa.Mai@epa.gov>; Mancusi-Ungaro, Philip <Mancusi-Ungaro.Philip@epa.gov>; Wells, Kimberly <wells.kimberly@epa.gov>; Dubey, Susmita <dubey.susmita@epa.gov>; Garnett, Desean <Garnett.Desean@epa.gov>; Blake, Ellen <Blake.Ellen@epa.gov>; Jackson, Julia <Jackson.Julia@epa.gov>; Witt, Richard <Witt.Richard@epa.gov>; McLaren, William <mclaren.william@epa.gov>  
**Subject:** Reminder today there is a Month Water Legal Issues Video/Call-In

- We can discuss any issue you are working on in the regions ... pls send e mail just to me.

From us,

- WoUS update
- New decision on hydrological connection
- Des Moines decision
- Petition for reconsideration of steam electric ELGs.
- Petition from Food and Water Watch to revise the CAFO rules
- AFBF settlement (reverse FOIA case).

- *Mary Ellen*

Mary Ellen Levine  
Assistant General Counsel  
Water Law Office, Office of General Counsel  
7510 C WJC North  
(202) 564-5487

Message

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**From:** Neugeboren, Steven [Neugeboren.Steven@epa.gov]  
**Sent:** 11/27/2020 5:38:23 PM  
**To:** Levine, MaryEllen [levine.maryellen@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]  
**Subject:** RE: CAFO petition response called off



Steven Neugeboren  
Associate General Counsel for Water  
United States Environmental Protection Agency  
Mailcode 2355A  
1200 Penn. Ave., N.W.  
Washington DC 20460  
(202) 564-5488

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**From:** Levine, MaryEllen <levine.maryellen@epa.gov>  
**Sent:** Wednesday, November 25, 2020 11:07 AM  
**To:** Kupchan, Simma <Kupchan.Simma@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>  
**Subject:** RE: CAFO petition response called off

That is great news Simma.

Have a great Thanksgiving!

- *Mary Ellen*

Mary Ellen Levine  
Assistant General Counsel  
Water Law Office, Office of General Counsel  
7510 C WJC North  
(202) 564-1345

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**From:** Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Sent:** Wednesday, November 25, 2020 11:06 AM  
**To:** Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Levine, MaryEllen <levine.maryellen@epa.gov>  
**Subject:** CAFO petition response called off

## Ex. 5 Deliberative Process (DP)

### Ex. 5 Deliberative Process (DP)

George is taking the lead on a spreadsheet summarizing the FWW petition's key claims and potential responses, and I'll work with him on it.

Happy Thanksgiving!

Simma Kupchan  
EPA Office of General Counsel



Water Law Office  
WJC North Building # 7426Q  
202-564-3105

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**From:** Zobrist, Marcus <Zobrist.Marcus@epa.gov>  
**Sent:** Wednesday, November 25, 2020 10:56 AM  
**To:** Utting, George <Utting.George@epa.gov>; Wood, Robert <Wood.Robert@epa.gov>; Shriner, Paul <Shriner.Paul@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>; Pritts, Jesse <Pritts.Jesse@epa.gov>  
**Subject:** RE: CAFO petitions: Talking Points for Andrew, and list of all the issues

Good news – Per Andrew’s discussion with Anna,

### Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP) Thanks to George for taking the lead in developing the developed the talking points and for very helpful comments from Simma and Paul. Andrew’s talking points were clearly effective.

Let’s take a final review of the table before s  
coordinate.

### Ex. 5 Deliberative Process (DP)

George will

**From:** Kloss, Christopher  
**Sent:** Wednesday, November 25, 2020 10:29 AM  
**To:** Zobrist, Marcus <Zobrist.Marcus@epa.gov>  
**Cc:** Chan, Jennifer <Chan.Jennifer@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>  
**Subject:** IB Updates from OWM Bi-Weekly

Hey Marcus,

Here is a bit of info from yesterday’s discussion with the 3<sup>rd</sup> floor.

# Ex. 5 Deliberative Process (DP)

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Chris Kloss  
Water Permits Division  
US EPA Office of Water  
202.564.1438 (o)

Ex. 6 Personal Privacy (PP)

Message

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**From:** Ford, Peter [Ford.Peter@epa.gov]  
**Sent:** 11/18/2020 2:07:17 PM  
**To:** Levine, MaryEllen [levine.maryellen@epa.gov]  
**Subject:** RE: Did anyone add anything to the Agenda - due CoB Tuesday +Technology & Wet Weather Team Meeting tomorrow

Hi MEL, I'll be on by phone for the team mtg today, fyi.

Peter Z. Ford  
U.S. EPA Office of General Counsel  
202.564.5593

---

**From:** Levine, MaryEllen <levine.maryellen@epa.gov>  
**Sent:** Tuesday, November 17, 2020 5:35 PM  
**To:** Witt, Richard <Witt.Richard@epa.gov>; Parikh, Pooja <Parikh.Pooja@epa.gov>; Ford, Peter <Ford.Peter@epa.gov>; Zomer, Jessica <Zomer.Jessica@epa.gov>; Hughes, Krista <hughes.krista@epa.gov>; Creech, Christopher <Creech.Christopher@epa.gov>; Wade, Alexis <Wade.Alexis@epa.gov>; Mullee, Alexander <Mullee.Alexander@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Glazer, Thomas <glazer.thomas@epa.gov>; Garretson, Eleanor <Garretson.Eleanor@epa.gov>  
**Cc:** Ruggs, Tasheka <ruggs.tasheka@epa.gov>; McConkey, Diane <Mcconkey.Diane@epa.gov>; Curtin, James <curtin.james@epa.gov>; Wendelowski, Karyn <wendelowski.karyn@epa.gov>  
**Subject:** Did anyone add anything to the Agenda - due CoB Tuesday +Technology & Wet Weather Team Meeting tomorrow

Hi guys,

Did people finish adding anything to Reg Review – due COB Today. I need this for my 9:30 am meeting with Steve tomorrow morning. If you add something, please shoot me a short e mail to that effect.

I know Karyn was going to add  
Was either Eleanor or Jessica

**Ex. 5 Deliberative Process (DP)**

Karyn/Simma - We briefly mentioned to David today both the CWT ELGs project and response to 2017 petition to amend the CAFO regs. Perhaps add under FYI.

**Ex. 5 Deliberative Process (DP)**

**Ex. 5 Deliberative Process (DP)**

All – we have a team meeting tomorrow at 3– would be great if you could attend. Next week, I'll be here Mon-Wed.

- Mary Ellen

Mary Ellen Levine  
Assistant General Counsel  
Water Law Office, Office of General Counsel  
7510 C WJC North  
(202) 564-1345

Message

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**From:** Neugeboren, Steven [Neugeboren.Steven@epa.gov]  
**Sent:** 7/2/2019 6:18:10 PM  
**To:** Levine, MaryEllen [levine.maryellen@epa.gov]  
**Subject:** RE: any comment on this, regarding slaughterhouse wastewater?

Given step 2 I imagine simma may be more fully subscribed. We can discuss at pgl weekly.

Steve Neugeboren  
Associate General Counsel for Water  
U.S. EPA  
1200 Pennsylvania Ave., NW  
Washington, DC 20460  
202 (564-5488)

---

**From:** Levine, MaryEllen  
**Sent:** Tuesday, July 2, 2019 2:17 PM  
**To:** Neugeboren, Steven <Neugeboren.Steven@epa.gov>  
**Subject:** FW: any comment on this, regarding slaughterhouse wastewater?

We will need to deal with assigning this. It would normally be Simma, or Richard, but I honestly don't think either has the bandwidth for this. Perhaps Richard until we get a new hire?

We had a Food and Water Watch Petition to amend the CAFO regs from many years ago; I wonder if this is related.

- *Mary Ellen*

Mary Ellen Levine  
Assistant General Counsel  
Water Law Office, Office of General Counsel  
7510 C WJC North  
(202) 564-1345

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**From:** Hackel, Angela  
**Sent:** Tuesday, July 02, 2019 12:42 PM  
**To:** Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Dennis, Allison <Dennis.Allison@epa.gov>; Risley, David <Risley.David@epa.gov>; Fuld, John <Fuld.John@epa.gov>  
**Cc:** Fotouhi, David <Fotouhi.David@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Levine, MaryEllen <levine.maryellen@epa.gov>  
**Subject:** FW: any comment on this, regarding slaughterhouse wastewater?

Please see the attached request. Waiting on the deadline.

I am thinking the response would be the same as to how we respond to the other inquiry.

Please let me know.

Thanks,

Angela

---

**From:** Marc Heller <[mheller@eenews.net](mailto:mheller@eenews.net)>

**Sent:** Tuesday, July 2, 2019 12:17 PM

**To:** Press <[Press@epa.gov](mailto:Press@epa.gov)>

**Subject:** any comment on this, regarding slaughterhouse wastewater?

If needed, I can always add a reaction or insight to the story, as it's for today's Greenwire and we're on deadline here....

Thanks,

Marc Heller at E&E News

Ex. 6 Personal Privacy (PP)

[mheller@eenews.net](mailto:mheller@eenews.net)

Message

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**From:** Levine, MaryEllen [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=F59EF87B9924425897C750435BAD5522-MLEVINE]  
**Sent:** 11/16/2020 10:43:36 PM  
**To:** Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Messier, Dawn [Messier.Dawn@epa.gov]  
**Subject:** FW: CAFO Petitions before OW - workload

## Ex. 5 Attorney Client (AC)

- Mary Ellen

Mary Ellen Levine  
Assistant General Counsel  
Water Law Office, Office of General Counsel  
7510 C WJC North  
(202) 564-1345

---

**From:** Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Sent:** Monday, November 16, 2020 5:34 PM  
**To:** Utting, George <Utting.George@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>; Levine, MaryEllen <levine.maryellen@epa.gov>  
**Subject:** RE: CAFO Petitions before OW

George,

## Ex. 5 Attorney Client (AC)

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

---

**From:** Utting, George <Utting.George@epa.gov>  
**Sent:** Monday, November 16, 2020 5:00 PM  
**To:** Kupchan, Simma <Kupchan.Simma@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>  
**Subject:** RE: CAFO Petitions before OW

Simma,

# Ex. 5 Deliberative Process (DP)

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**From:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>

**Sent:** Tuesday, July 21, 2020 1:27 PM

**To:** Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Subject:** RE: CAFO Petitions before OW

Fine by me.

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

---

**From:** Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>

**Sent:** Tuesday, July 21, 2020 1:24 PM

**To:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>; Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Subject:** RE: CAFO Petitions before OW

Thank you Simma.  
Andrew just asked for a copy of the response.  
Would it be okay to share?  
Thanks.

---

**From:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>

**Sent:** Tuesday, July 21, 2020 12:19 PM

**To:** Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Subject:** RE: CAFO Petitions before OW

Thanks, all. I proposed a few edits to the response to Anna, in strikethrough/red.

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

---

**From:** Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>

**Sent:** Tuesday, July 21, 2020 11:57 AM

**To:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Cc:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>

**Subject:** RE: CAFO Petitions before OW

thank you all.

Marcus- I can reach out to Macara, not a problem.

Thanks.

Maria

---

**From:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>

**Sent:** Tuesday, July 21, 2020 11:34 AM

**To:** Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Cc:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>

**Subject:** RE: CAFO Petitions before OW

I have more in the way of question/suggestions rather than specific edits.

First, I am not sure whether or not the Ag Advisor's office has been involved. When I went back to look, I only see that there was an email from the Smart Sectors Communications Director through Mary Schollhamer. I do not recall whether there was actual involvement with the Ag Advisor's office.

Second, with respect to the attachment, it is more than just a meeting summary. It is a summary of the issues raised in the petition and subsequent steps taken to engage with the petitioners.

I've highlighted where both of these issues occur below.

---

**From:** Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>

**Sent:** Tuesday, July 21, 2020 11:23 AM

**To:** Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Cc:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>

**Subject:** RE: CAFO Petitions before OW

Hi,  
Suggesting a few additional edits to clarify that EPA has a few different websites focused on petitions.

---

Good Morning Anna:

EPA has ~~two~~ distinct website pages regarding petitions. If we recall correctly, the Water Policy ~~branch~~ Staff in OW is responsible for the ~~other~~ petition page at <https://www.epa.gov/aboutepa/petitions-office-water> but we would need to look into the website program area to determine the owner.

The withdrawal petition page is owned and updated by OWM. Because the two petitions listed below are not withdrawal petitions, they were not uploaded to the OWM withdrawal petition website.

Regarding the 2017 FWW petition:

- The EPA team has met with FWW several times regarding this petition. Attached you will find a meeting summary of the March 8, 2017 meeting with FWW.

## Ex. 5 Deliberative Process (DP)

- Most recently, the team worked with the Ag Advisor to provide a response to FWW regarding their pending petition ~~this topic~~. We can share that response if you like.

## Ex. 5 Deliberative Process (DP)

---

**From:** Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>

**Sent:** Tuesday, July 21, 2020 11:12 AM

**To:** Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Cc:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>

**Subject:** RE: CAFO Petitions before OW

---

**From:** Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>

**Sent:** Tuesday, July 21, 2020 10:56 AM

**To:** Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Cc:** Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>

**Subject:** RE: CAFO Petitions before OW

*Draft response below- please feel free to edit. Thanks.*

Good Morning Anna:

EPA has two distinct website pages regarding petitions:

1. The withdrawal petition page is owned and updated by OWM.
2. Because the two petitions listed below are not withdrawal petitions, they were not uploaded to the OWM withdrawal petition website.
3. If we recall correctly, the Water Policy branch in OW is responsible for the other petition page but we would need to look into the website program area to determine the owner.

Regarding the 2017 FWW petition:

- The EPA team has met with FWW several times regarding this petition. Attached you will find a meeting summary of the March 8, 2017 meeting with FWW.



# Ex. 5 Deliberative Process (DP)

- Most recently, the team worked with the Ag Advisor to provide a response to FWW regarding this topic. We can share that response if you like.

## Ex. 5 Deliberative Process (DP)

**From:** Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>

**Sent:** Tuesday, July 21, 2020 10:28 AM

**To:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Cc:** Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>

**Subject:** RE: CAFO Petitions before OW

Just wrapping in Simma and Marcus in case they want to add anything.

We did meet several times with FWW et al on the 2017 petition,

**Ex. 5 Deliberative Process (DP)**

## Ex. 5 Deliberative Process (DP)

Jennyh

Jenny Molloy

U.S. EPA

Water Permits Division

**Ex. 6 Personal Privacy (PP)**

[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

---

**From:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>

**Sent:** Tuesday, July 21, 2020 10:19 AM

**To:** Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Cc:** Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>

**Subject:** RE: CAFO Petitions before OW

Maria,

We have worked on the 2017 Food & Water Watch petition. In fact, I think we recently responded to an email about it – maybe from the ag advisor's office. the list of petitions on our website.

**Ex. 5 Deliberative Process (DP)**

## Ex. 5 Deliberative Process (DP)

# Ex. 5 Deliberative Process (DP)

---

**From:** Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>  
**Sent:** Tuesday, July 21, 2020 10:13 AM  
**To:** Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>  
**Cc:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>  
**Subject:** RE: CAFO Petitions before OW

Looping in Jenny. I don't know what the status of these are but these would have been assigned to the Industrial Branch since they aren't withdrawal petitions but instead focus on EPA's CAFO program requirements. I was aware of the Food and Water Watch petition [there were some discussions when it came in] but I hadn't heard about the Buffalo River Alliance one.

---

**From:** Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>  
**Sent:** Tuesday, July 21, 2020 10:02 AM  
**To:** Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>  
**Cc:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>  
**Subject:** FW: CAFO Petitions before OW

Good Morning Nizanna and Kevin:

Please see request below from Anna. Do you all have information on these petitions?

Adding George since its CAFO and maybe he has some knowledge on this.

Thank you  
Maria

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**From:** Sawyers, Andrew <[Sawyers.Andrew@epa.gov](mailto:Sawyers.Andrew@epa.gov)>  
**Sent:** Tuesday, July 21, 2020 9:29 AM  
**To:** Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Kloss, Christopher <[Kloss.Christopher@epa.gov](mailto:Kloss.Christopher@epa.gov)>  
**Cc:** Miller, Wynne <[Miller.Wynne@epa.gov](mailto:Miller.Wynne@epa.gov)>; Sylvester, Francis <[Sylvester.Francis@epa.gov](mailto:Sylvester.Francis@epa.gov)>; Sylvester, Francis <[Sylvester.Francis@epa.gov](mailto:Sylvester.Francis@epa.gov)>  
**Subject:** FW: CAFO Petitions before OW

Hello Maria and Chris, please see the request from Anna below. Please let me know what you find out – thanks.

---

**From:** Wildeman, Anna <[wildeman.anna@epa.gov](mailto:wildeman.anna@epa.gov)>  
**Sent:** Tuesday, July 21, 2020 9:26 AM  
**To:** Sawyers, Andrew <[Sawyers.Andrew@epa.gov](mailto:Sawyers.Andrew@epa.gov)>  
**Cc:** Aguirre, Janita <[Aguirre.Janita@epa.gov](mailto:Aguirre.Janita@epa.gov)>  
**Subject:** FW: CAFO Petitions before OW

Andrew, can you find out for me if EPA responded to these two petitions? If yes, can you please send me our responses. If no, can you let me know if something is in process? Also see Tom's question below on the FWW petition—should it be on our website?

Thanks,  
Anna

---

**From:** Thomas Hebert <[tom.hebert@bayardridge.com](mailto:tom.hebert@bayardridge.com)>  
**Sent:** Tuesday, July 21, 2020 9:20 AM  
**To:** Wildeman, Anna <[wildeman.anna@epa.gov](mailto:wildeman.anna@epa.gov)>  
**Subject:** CAFO Petitions before OW

Hi Anna,

Below are two petitions. The first by Food and Water Watch et al (2017) is referenced in this story on their website: <https://www.foodandwaterwatch.org/news/dozens-advocacy-groups-challenge-epa-factory-farm-pollution>. If you Google the topic you will find several versions of this same story. To my great surprise, the 2017 petition is not listed on the OW website. (<https://www.epa.gov/aboutepa/petitions-office-water>). Food and Water watch says they filed it, there are dozens of reviews in the legal trade press about it, but it is not on your website? I can find no reference in the press, etc. to this 2017 petition being “withdrawn.” I am puzzled.

The second one (2015) is on your website.

I will be interested in hearing what you find out about both of these.

1. <https://buffaloriveralliance.org/resources/Pictures/citizens%20cafo%20cwa%20petition.pdf>
2. [https://www.epa.gov/sites/production/files/2016-09/documents/cwa\\_cafo\\_ebrotzman\\_9\\_2015.pdf](https://www.epa.gov/sites/production/files/2016-09/documents/cwa_cafo_ebrotzman_9_2015.pdf)

Best!

Tom

Message

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**From:** Levine, MaryEllen [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=F59EF87B9924425897C750435BAD5522-MLEVINE]  
**Sent:** 11/18/2020 4:36:36 PM  
**To:** Neugeboren, Steven [Neugeboren.Steven@epa.gov]  
**Subject:** CAFO petition is attached - long and complex  
**Attachments:** FWW citizens\_cafo\_cwa\_petition.pdf

- *Mary Ellen*

Mary Ellen Levine  
Assistant General Counsel  
Water Law Office, Office of General Counsel  
7510 C WJC North  
(202) 564-1345

Message

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**From:** Levine, MaryEllen [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=F59EF87B9924425897C750435BAD5522-MLEVINE]  
**Sent:** 10/17/2017 7:56:42 PM  
**To:** Ford, Peter [Ford.Peter@epa.gov]; Kermish, Laurie [Kermish.Laurie@epa.gov]; Blake, Ellen [Blake.Ellen@epa.gov]  
**CC:** Zomer, Jessica [Zomer.Jessica@epa.gov]  
**Subject:** RE: Food & Water Watch et al CAFO petition

Zomer is covering while Simma is Ex. 6 Personal Privacy (PP)

## Ex. 5 Attorney Client (AC)

- *Mary Ellen*

Mary Ellen Levine  
Assistant General Counsel  
Water Law Office, Office of General Counsel  
7510 C WJC North  
(202) 564-1345

---

**From:** Ford, Peter  
**Sent:** Tuesday, October 17, 2017 11:46 AM  
**To:** Kermish, Laurie <Kermish.Laurie@epa.gov>; Blake, Ellen <Blake.Ellen@epa.gov>  
**Cc:** Levine, MaryEllen <levine.maryellen@epa.gov>  
**Subject:** RE: Food & Water Watch et al CAFO petition

Hi Laurie, just adding MEL since I don't handle CAFOs, not sure who does right now with Simma Ex. 6 Personal Privacy (PP)

Peter Z. Ford  
U.S. EPA Office of General Counsel  
202.564.5593

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**From:** Kermish, Laurie  
**Sent:** Tuesday, October 17, 2017 11:42 AM  
**To:** Blake, Ellen <Blake.Ellen@epa.gov>  
**Cc:** Ford, Peter <Ford.Peter@epa.gov>  
**Subject:** FW: Food & Water Watch et al CAFO petition

## Ex. 5 Attorney Client (AC)

Laurie Kermish  
CWA Section Chief  
Office of Regional Counsel (ORC-2)  
U.S. EPA, Region 9  
75 Hawthorne St.  
San Francisco, CA 94105  
(415) 972-3917  
(415) 947-3570 (fax)  
[kermish.laurie@epa.gov](mailto:kermish.laurie@epa.gov)

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---

**From:** Molloy, Jennifer

**Sent:** Tuesday, October 17, 2017 5:11 AM

**To:** Galloway, Carol <[Galloway.Carol@epa.gov](mailto:Galloway.Carol@epa.gov)>; Adams, Margery <[adams.margery@epa.gov](mailto:adams.margery@epa.gov)>; Arvizu, Christy <[Arvizu.Christy@epa.gov](mailto:Arvizu.Christy@epa.gov)>; Atkinson, Benjamin <[atkinson.ben@epa.gov](mailto:atkinson.ben@epa.gov)>; Bahr, Ryan <[bahr.ryan@epa.gov](mailto:bahr.ryan@epa.gov)>; Blanco-Gonzalez, Joel <[Blanco-Gonzalez.Joel@epa.gov](mailto:Blanco-Gonzalez.Joel@epa.gov)>; Boisclair, Diane <[boisclair.diane@epa.gov](mailto:boisclair.diane@epa.gov)>; Bonnelycke, Nina <[Bonnelycke.Nina@epa.gov](mailto:Bonnelycke.Nina@epa.gov)>; Breedlove, Dan <[Breedlove.Dan@epa.gov](mailto:Breedlove.Dan@epa.gov)>; Bukhari, Samir <[Bukhari.Samir@epa.gov](mailto:Bukhari.Samir@epa.gov)>; Burdett, Cheryl <[burdett.cheryl@epa.gov](mailto:burdett.cheryl@epa.gov)>; Bush, William <[Bush.William@epa.gov](mailto:Bush.William@epa.gov)>; Campbell, Gwen <[Campbell.Gwen@epa.gov](mailto:Campbell.Gwen@epa.gov)>; Chang-Vaughan, Ellen <[Chang-Vaughan.Ellen@epa.gov](mailto:Chang-Vaughan.Ellen@epa.gov)>; Chase, Felicia <[chase.felicia@epa.gov](mailto:chase.felicia@epa.gov)>; Coats, Andrea <[Coats.Andrea@epa.gov](mailto:Coats.Andrea@epa.gov)>; Cozad, David <[Cozad.David@epa.gov](mailto:Cozad.David@epa.gov)>; Dart, Denny <[Dart.Denny@epa.gov](mailto:Dart.Denny@epa.gov)>; Davies, Lauris <[Davies.Lauris@epa.gov](mailto:Davies.Lauris@epa.gov)>; Drelich, David <[Drelich.David@epa.gov](mailto:Drelich.David@epa.gov)>; Duchovnay, Andrew <[Duchovnay.Andrew@epa.gov](mailto:Duchovnay.Andrew@epa.gov)>; Gable, Kelly <[Gable.Kelly@epa.gov](mailto:Gable.Kelly@epa.gov)>; Greenberg, Ken <[Greenberg.Ken@epa.gov](mailto:Greenberg.Ken@epa.gov)>; Greenwald, Kathryn <[Greenwald.Kathryn@epa.gov](mailto:Greenwald.Kathryn@epa.gov)>; Hamera, Donald <[Hamera.Don@epa.gov](mailto:Hamera.Don@epa.gov)>; Heinemann, Kristina <[Heinemann.Kristina@epa.gov](mailto:Heinemann.Kristina@epa.gov)>; Herbert, Rusty <[Herbert.Rusty@epa.gov](mailto:Herbert.Rusty@epa.gov)>; Hom, Michael <[Hom.Michael@epa.gov](mailto:Hom.Michael@epa.gov)>; Huffman, Diane <[Huffman.Diane@epa.gov](mailto:Huffman.Diane@epa.gov)>; Jackson, Julia <[Jackson.Julia@epa.gov](mailto:Jackson.Julia@epa.gov)>; Jann, Stephen <[jann.stephen@epa.gov](mailto:jann.stephen@epa.gov)>; Joe, Don <[Joe.Don@epa.gov](mailto:Joe.Don@epa.gov)>; Schefski, Melissa <[Schefski.Melissa@epa.gov](mailto:Schefski.Melissa@epa.gov)>; Kenknight, Jeff <[Kenknight.Jeff@epa.gov](mailto:Kenknight.Jeff@epa.gov)>; Kermish, Laurie <[Kermish.Laurie@epa.gov](mailto:Kermish.Laurie@epa.gov)>; Kroening, Peg <[Kroening.Margaret@epa.gov](mailto:Kroening.Margaret@epa.gov)>; Kuefler, Patrick <[kuefler.patrick@epa.gov](mailto:kuefler.patrick@epa.gov)>; Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>; Kwok, Rose <[Kwok.Rose@epa.gov](mailto:Kwok.Rose@epa.gov)>; Lane, Willie <[Lane.Willie@epa.gov](mailto:Lane.Willie@epa.gov)>; Lister, Chris <[Lister.Chris@epa.gov](mailto:Lister.Chris@epa.gov)>; Livingston, Peggy <[Livingston.Peggy@epa.gov](mailto:Livingston.Peggy@epa.gov)>; Lopez, Jaime <[Lopez.Jaime@epa.gov](mailto:Lopez.Jaime@epa.gov)>; Lukowich, Michael <[lukowich.michael@epa.gov](mailto:lukowich.michael@epa.gov)>; Massey, Michael <[Massey.Michael@epa.gov](mailto:Massey.Michael@epa.gov)>; McDonald, Scott <[mcdonald.scott@epa.gov](mailto:mcdonald.scott@epa.gov)>; Mikalian, Charles <[mikalian.charles@epa.gov](mailto:mikalian.charles@epa.gov)>; Mitschele, Becky <[Mitschele.Becky@epa.gov](mailto:Mitschele.Becky@epa.gov)>; Modigliani, Justine <[Modigliani.Justine@epa.gov](mailto:Modigliani.Justine@epa.gov)>; Moody, Jonathan <[moody.jonathan@epa.gov](mailto:moody.jonathan@epa.gov)>; Moores, Steven <[Moores.Steven@epa.gov](mailto:Moores.Steven@epa.gov)>; Morgan, James <[Morgan.James@epa.gov](mailto:Morgan.James@epa.gov)>; Mortensen, Ginah <[mortensen.ginah@epa.gov](mailto:mortensen.ginah@epa.gov)>; Ogle, Kimberly <[Ogle.Kimberly@epa.gov](mailto:Ogle.Kimberly@epa.gov)>; Oviedo, Luis <[oviedo.luis@epa.gov](mailto:oviedo.luis@epa.gov)>; Peak, Nicholas <[Peak.Nicholas@epa.gov](mailto:Peak.Nicholas@epa.gov)>; Plymale, Chris <[Plymale.Christopher@epa.gov](mailto:Plymale.Christopher@epa.gov)>; Pollard, Stephen <[Pollard.Stephen@epa.gov](mailto:Pollard.Stephen@epa.gov)>; Porter, Donna <[Porter.Donna@epa.gov](mailto:Porter.Donna@epa.gov)>; Potokar, Steven <[Potokar.Steven@epa.gov](mailto:Potokar.Steven@epa.gov)>; Rogers, Joan <[rogers.joan@epa.gov](mailto:rogers.joan@epa.gov)>; Sampath, Sam <[Sampath.Sam@epa.gov](mailto:Sampath.Sam@epa.gov)>; Schwer, Don <[Schwer.Don@epa.gov](mailto:Schwer.Don@epa.gov)>; Segall, Martha <[Segall.Martha@epa.gov](mailto:Segall.Martha@epa.gov)>; Senkayi, Abu <[Senkayi.Abu@epa.gov](mailto:Senkayi.Abu@epa.gov)>; Silver, Wendy <[Silver.Wendy@epa.gov](mailto:Silver.Wendy@epa.gov)>; Sipe, Diane <[Sipe.Diane@epa.gov](mailto:Sipe.Diane@epa.gov)>; Socha, Julianne <[socha.julianne@epa.gov](mailto:socha.julianne@epa.gov)>; Stokely, Peter <[Stokely.Peter@epa.gov](mailto:Stokely.Peter@epa.gov)>; Sullivan, Tim <[Sullivan.Tim@epa.gov](mailto:Sullivan.Tim@epa.gov)>; Sutin, Elyana <[Sutin.Elyana@epa.gov](mailto:Sutin.Elyana@epa.gov)>; Theis, Joseph <[Theis.Joseph@epa.gov](mailto:Theis.Joseph@epa.gov)>; Thomas, Lee <[Thomas.Lee@epa.gov](mailto:Thomas.Lee@epa.gov)>; Thompson, Robert <[thompson.robertl@epa.gov](mailto:thompson.robertl@epa.gov)>; Thuot, Lisa <[Thuot.Lisa@epa.gov](mailto:Thuot.Lisa@epa.gov)>; Tipton, Lantz <[tipton.lantz@epa.gov](mailto:tipton.lantz@epa.gov)>; Urban, Trevor <[Urban.Trevor@epa.gov](mailto:Urban.Trevor@epa.gov)>; Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Vanlerberghe, Daren <[Vanlerberghe.Daren@epa.gov](mailto:Vanlerberghe.Daren@epa.gov)>; VanTil, Barbara <[vantil.barbara@epa.gov](mailto:vantil.barbara@epa.gov)>; Vuilleumier, Kevin <[vuilleumier.kevin@epa.gov](mailto:vuilleumier.kevin@epa.gov)>; Weiler, Eaton <[weiler.eaton@epa.gov](mailto:weiler.eaton@epa.gov)>; Whitson, Amelia <[Whitson.Amelia@epa.gov](mailto:Whitson.Amelia@epa.gov)>; Williams, Nancy <[Williams.Nancy@epa.gov](mailto:Williams.Nancy@epa.gov)>; Wills, Carl <[Wills.Carl@epa.gov](mailto:Wills.Carl@epa.gov)>; Witt, Richard <[Witt.Richard@epa.gov](mailto:Witt.Richard@epa.gov)>; Zolandz, Mark <[Zolandz.Mark@epa.gov](mailto:Zolandz.Mark@epa.gov)>; Boeglin, Michael <[Boeglin.Michael@epa.gov](mailto:Boeglin.Michael@epa.gov)>; Vezner, Kris

<vezner.kris@epa.gov>; Ibarra, Juan <Ibarra.Juan@epa.gov>; Draper, Seth <Draper.Seth@epa.gov>; Anderson, Kate <Anderson.Kate@epa.gov>; Wetherington, Michele <Wetherington.Michele@epa.gov>; Savino, Kathleen <Savino.Kathleen@epa.gov>; Chan, Janice <Chan.Janice@epa.gov>; Goldstein, Jessica <goldstein.jessica@epa.gov>; Cooper, WilliamF <Cooper.WilliamF@epa.gov>; Quigley, Heather <Quigley.Heather@epa.gov>; Mills, Clarissa <mills.clarissa@epa.gov>; Rise, David <rise.david@epa.gov>; Saporita, Chris <Saporita.Chris@epa.gov>; Smith, Brittany <Smith.Brittany@epa.gov>; Arcaya, Alyssa <arcaya.alysa@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>; Nguyen, Quoc <Nguyen.Quoc@epa.gov>  
**Cc:** Ordonez, Efren <Ordonez.Efren@epa.gov>; Henson, Tucker <Henson.Tucker@epa.gov>; Murdock, Russell <Murdock.Russell@epa.gov>; Campbell, Rich <Campbell.Rich@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Ziobro, Joseph <Ziobro.Joseph@epa.gov>; Gholson, Greg <Gholson.Greg@epa.gov>; Bandrowicz, Toni <bandrowicz.toni@epa.gov>; Grubb, Christopher <Grubb.Christopher@epa.gov>; Roberts, Connie <Roberts.Connie@epa.gov>; Jones, Kristin <jones.kristin@epa.gov>; Hodaj, Andi <hodaj.andi@epa.gov>; Kostek, Daniel <kostek.daniel@epa.gov>; Johnston, Carey <Johnston.Carey@epa.gov>; Yourish, Jesse <yourish.jesse@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Nina Bonnelycke <nbonnelycke@msn.com>; Clark, Amy <Clark.Amy@epa.gov>; Juarez, Paul <Juarez.Paul@epa.gov>; Smith, DavidW <Smith.DavidW@epa.gov>; O'Lone, Dan <Olone.Dan@epa.gov>; Armor, Suzanne <Armor.Suzanne@epa.gov>; Spejewski, Andrew <Spejewski.Andrew@epa.gov>; Howard, MarkW <Howard.MarkW@epa.gov>; Tinger, John <Tinger.John@epa.gov>; Colletti, John <colletti.john@epa.gov>; Hamilton, Denise <Hamilton.Denise@epa.gov>; Houlihan, Damien <houlihan.damien@epa.gov>; Rosenberg, Alex <Rosenberg.Alex@epa.gov>; Abrams, Nancy <Abrams.Nancy@epa.gov>; Brennan, Ross <Brennan.Ross@epa.gov>; Cunningham, Caitlin <cunningham.caitlin@epa.gov>; WEISS, MICHAEL <weiss.michael@epa.gov>; Perez, Daniel <Perez.Daniel@epa.gov>; Hayes, Mark <hayes.mark@epa.gov>  
**Subject:** Food & Water Watch et al CAFO petition

Per our discussion on the call last week, I said I'd send this around.

<< File: citizens\_cafo\_cwa\_petition.pdf >>

Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939  
[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

Message

---

**From:** Utting, George [Utting.George@epa.gov]  
**Sent:** 7/21/2020 5:50:39 PM  
**To:** Lopez-Carbo, Maria [Lopez-Carbo.Maria@epa.gov]  
**Subject:** RE: CAFO Petitions before OW

You can call me Ex. 6 Personal Privacy (PP)

---

**From:** Utting, George  
**Sent:** Tuesday, July 21, 2020 1:50 PM  
**To:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>  
**Subject:** RE: CAFO Petitions before OW

I only saw a question forwarded from the communications office through Mary. Not a response. I believe the Administrator was going to have a conference call with some industry reps. My guess is that there was no written communication at that level.

---

**From:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>  
**Sent:** Tuesday, July 21, 2020 1:46 PM  
**To:** Utting, George <Utting.George@epa.gov>  
**Subject:** RE: CAFO Petitions before OW

Thank you George. I can use this one.

Do you happen to have the response that Mary S sent?  
Thanks  
Maria

---

**From:** Utting, George <Utting.George@epa.gov>  
**Sent:** Tuesday, July 21, 2020 1:45 PM  
**To:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>  
**Subject:** RE: CAFO Petitions before OW

Adding my edits to Simma's on the 2017 FWW petition. I have edited the first bullet and struck out the third bullet.

\*\*\*\*\*

Good Morning Anna:

EPA has ~~two~~ distinct website pages regarding petitions. If we recall correctly, the Water Policy ~~branch~~ Staff in OW is responsible for the ~~other~~ petition page at <https://www.epa.gov/aboutepa/petitions-office-water> but we would need to look into the website program area to determine the owner.

The withdrawal petition page is owned and updated by OWM. Because the two petitions listed below are not withdrawal petitions, they were not uploaded to the OWM withdrawal petition website.

Regarding the 2017 FWW petition:

- The EPA team has met with FWW several times regarding this petition. Attached you will find a meeting summary of the March 8, 2017 meeting with issues raised by FWW and our response at the time.



# Ex. 5 Deliberative Process (DP)

- Most recently, the team worked with the Ag Advisor to provide a response to FWW regarding their pending petition this topic. We can share that response if you like.

# Ex. 5 Deliberative Process (DP)

---

**From:** Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>

**Sent:** Tuesday, July 21, 2020 1:36 PM

**To:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>; Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Subject:** RE: CAFO Petitions before OW

Sorry, I realized that my spacing in the email below was off.

George- can you share the response? Thanks

---

**From:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>

**Sent:** Tuesday, July 21, 2020 1:28 PM

**To:** Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>; Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Subject:** RE: CAFO Petitions before OW

Note my comments. If you like, I can provide an edit for the 2<sup>nd</sup> one, but I don't know what the answer to my first comment is – I have not seen anything that reflects ag advisor involvement.

---

**From:** Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>

**Sent:** Tuesday, July 21, 2020 1:24 PM

**To:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>; Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Subject:** RE: CAFO Petitions before OW

Thank you Simma.

Andrew just asked for a copy of the response.

Would it be okay to share?

Thanks.

---

**From:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>

**Sent:** Tuesday, July 21, 2020 12:19 PM

**To:** Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Subject:** RE: CAFO Petitions before OW

Thanks, all. I proposed a few edits to the response to Anna, in strikethrough/red.

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

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**From:** Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>

**Sent:** Tuesday, July 21, 2020 11:57 AM

**To:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Cc:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>

**Subject:** RE: CAFO Petitions before OW

thank you all.

Marcus- I can reach out to Macara, not a problem.

Thanks.  
Maria

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**To:** Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Cc:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>

**Subject:** RE: CAFO Petitions before OW

I have more in the way of question/suggestions rather than specific edits.

First, I am not sure whether or not the Ag Advisor's office has been involved. When I went back to look, I only see that there was an email from the Smart Sectors Communications Director through Mary Schollhamer. I do not recall whether there was actual involvement with the Ag Advisor's office.

Second, with respect to the attachment, it is more than just a meeting summary. It is a summary of the issues raised in the petition and subsequent steps taken to engage with the petitioners.

I've highlighted where both of these issues occur below.

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**From:** Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>

**Sent:** Tuesday, July 21, 2020 11:23 AM

**To:** Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Cc:** Kupchan, Simma <Kupchan.Simma@epa.gov>

**Subject:** RE: CAFO Petitions before OW

Hi,  
Suggesting a few additional edits to clarify that EPA has a few different websites focused on petitions.

---

Good Morning Anna:

EPA has two distinct website pages regarding petitions. If we recall correctly, the Water Policy branch Staff in OW is responsible for the other petition page at <https://www.epa.gov/aboutepa/petitions-office-water> but we would need to look into the website program area to determine the owner.

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- The EPA team has met with FWW several times regarding this petition. Attached you will find a meeting summary of the March 8, 2017 meeting with FWW.

• 

## Ex. 5 Deliberative Process (DP)

- Most recently, the team worked with the Ag Advisor to provide a response to FWW regarding their pending petition ~~this topic~~. We can share that response if you like.

## Ex. 5 Deliberative Process (DP)

---

**From:** Zobrist, Marcus <Zobrist.Marcus@epa.gov>

**Sent:** Tuesday, July 21, 2020 11:12 AM

**To:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

**Cc:** Kupchan, Simma <Kupchan.Simma@epa.gov>

**Subject:** RE: CAFO Petitions before OW

---

**From:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>

**Sent:** Tuesday, July 21, 2020 10:56 AM

**To:** Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

**Cc:** Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>

**Subject:** RE: CAFO Petitions before OW

*Draft response below- please feel free to edit. Thanks.*

Good Morning Anna:

EPA has two distinct website pages regarding petitions:

1. The withdrawal petition page is owned and updated by OWM.
2. Because the two petitions listed below are not withdrawal petitions, they were not uploaded to the OWM withdrawal petition website.
3. If we recall correctly, the Water Policy branch in OW is responsible for the other petition page but we would need to look into the website program area to determine the owner.

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- The EPA team has met with FWW several times regarding this petition. Attached you will find a meeting summary of the March 8, 2017 meeting with FWW.

## Ex. 5 Deliberative Process (DP)

- Most recently, the team worked with the Ag Advisor to provide a response to FWW regarding this topic. We can share that response if you like.

## Ex. 5 Deliberative Process (DP)

**From:** Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>

**Sent:** Tuesday, July 21, 2020 10:28 AM

**To:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Cc:** Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>

**Subject:** RE: CAFO Petitions before OW

Just wrapping in Simma and Marcus in case they want to add anything.

We did meet several times with FWW et al on the 2017 petition,

**Ex. 5 Deliberative Process (DP)**

## Ex. 5 Deliberative Process (DP)

Jennyh

Jenny Molloy

U.S. EPA

Water Permits Division

**Ex. 6 Personal Privacy (PP)**

[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

---

**From:** Utting, George <Utting.George@epa.gov>

**Sent:** Tuesday, July 21, 2020 10:19 AM

**To:** Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

**Cc:** Molloy, Jennifer <molloy.jennifer@epa.gov>

**Subject:** RE: CAFO Petitions before OW

Maria,

We have worked on the 2017 Food & Water Watch petition.

**Ex. 5 Deliberative Process (DP)**

## Ex. 5 Deliberative Process (DP)

---

**From:** Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>

**Sent:** Tuesday, July 21, 2020 10:13 AM

**To:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

**Cc:** Utting, George <Utting.George@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>

**Subject:** RE: CAFO Petitions before OW

Looping in Jenny. I don't know what the status of these are but these would have been assigned to the Industrial Branch since they aren't withdrawal petitions but instead focus on EPA's CAFO program requirements. I was aware of the Food and Water Watch petition [ there were some discussions when it came in] but I hadn't heard about the Buffalo River Alliance one.

---

**From:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>

**Sent:** Tuesday, July 21, 2020 10:02 AM

**To:** Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

**Cc:** Utting, George <Utting.George@epa.gov>

**Subject:** FW: CAFO Petitions before OW

Good Morning Nizanna and Kevin:

Please see request below from Anna. Do you all have information on these petitions?

Adding George since its CAFO and maybe he has some knowledge on this.

Thank you

Maria

---

**From:** Sawyers, Andrew <Sawyers.Andrew@epa.gov>

**Sent:** Tuesday, July 21, 2020 9:29 AM

**To:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Kloss, Christopher <Kloss.Christopher@epa.gov>

**Cc:** Miller, Wynne <Miller.Wynne@epa.gov>; Sylvester, Francis <Sylvester.Francis@epa.gov>; Sylvester, Francis <Sylvester.Francis@epa.gov>

**Subject:** FW: CAFO Petitions before OW

Hello Maria and Chris, please see the request from Anna below. Please let me know what you find out – thanks.

---

**From:** Wildeman, Anna <[wildeman.anna@epa.gov](mailto:wildeman.anna@epa.gov)>  
**Sent:** Tuesday, July 21, 2020 9:26 AM  
**To:** Sawyers, Andrew <[Sawyers.Andrew@epa.gov](mailto:Sawyers.Andrew@epa.gov)>  
**Cc:** Aguirre, Janita <[Aguirre.Janita@epa.gov](mailto:Aguirre.Janita@epa.gov)>  
**Subject:** FW: CAFO Petitions before OW

Andrew, can you find out for me if EPA responded to these two petitions? If yes, can you please send me our responses. If no, can you let me know if something is in process? Also see Tom's question below on the FWW petition—should it be on our website?

Thanks,  
Anna

---

**From:** Thomas Hebert <[tom.hebert@bayardridge.com](mailto:tom.hebert@bayardridge.com)>  
**Sent:** Tuesday, July 21, 2020 9:20 AM  
**To:** Wildeman, Anna <[wildeman.anna@epa.gov](mailto:wildeman.anna@epa.gov)>  
**Subject:** CAFO Petitions before OW

Hi Anna,

Below are two petitions. The first by Food and Water Watch et al (2017) is referenced in this story on their website: <https://www.foodandwaterwatch.org/news/dozens-advocacy-groups-challenge-epa-factory-farm-pollution>. If you Google the topic you will find several versions of this same story. To my great surprise, the 2017 petition is not listed on the OW website. (<https://www.epa.gov/aboutepa/petitions-office-water>). Food and Water watch says they filed it, there are dozens of reviews in the legal trade press about it, but it is not on your website? I can find no reference in the press, etc. to this 2017 petition being “withdrawn.” I am puzzled.

The second one (2015) is on your website.

I will be interested in hearing what you find out about both of these.

1. <https://buffaloriveralliance.org/resources/Pictures/citizens%20cafo%20cwa%20petition.pdf>
2. [https://www.epa.gov/sites/production/files/2016-09/documents/cwa\\_cafo\\_ebrotzman\\_9\\_2015.pdf](https://www.epa.gov/sites/production/files/2016-09/documents/cwa_cafo_ebrotzman_9_2015.pdf)

Best!

Tom

**From:** Utting, George [Utting.George@epa.gov]  
**Sent:** 11/17/2020 1:20:48 PM  
**To:** Lopez-Carbo, Maria [Lopez-Carbo.Maria@epa.gov]; Zobrist, Marcus [Zobrist.Marcus@epa.gov]  
**Subject:** RE: CAFO Petitions before OW

## Ex. 5 Deliberative Process (DP)

**From:** Utting, George  
**Sent:** Tuesday, November 17, 2020 8:13 AM  
**To:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>  
**Subject:** RE: CAFO Petitions before OW

## Ex. 5 Deliberative Process (DP)

I will work up some bullets for Andrew. I hope to have a list of issues (more detailed than the old briefing document), with other key information that will help to breakdown what we're dealing with.

**From:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>  
**Sent:** Tuesday, November 17, 2020 7:16 AM  
**To:** Utting, George <Utting.George@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>  
**Subject:** FW: CAFO Petitions before OW

Good Morning George & Marcus:

So for the Tuesday meeting with Anna, I usually write talking points (bullets) for Andrew. For this project, I probably need your assistance.

I have to hand the bullets by Friday. We just want to make sure to write the key items we want to share and questions we want him to ask.

Thanks

Maria

**From:** Utting, George <Utting.George@epa.gov>  
**Sent:** Monday, November 16, 2020 5:48 PM  
**To:** Kupchan, Simma <Kupchan.Simma@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>; Levine, MaryEllen <levine.maryellen@epa.gov>  
**Subject:** RE: CAFO Petitions before OW

## Ex. 5 Attorney Client (AC)

---

**From:** Kupchan, Simma <Kupchan.Simma@epa.gov>

**Sent:** Monday, November 16, 2020 5:34 PM

**To:** Utting, George <Utting.George@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>; Levine, MaryEllen <levine.maryellen@epa.gov>

**Subject:** RE: CAFO Petitions before OW

George,

# Ex. 5 Attorney Client (AC)

Looping in Mary Ellen. Mary Ellen, perhaps we can discuss.

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

---

**From:** Utting, George <Utting.George@epa.gov>

**Sent:** Monday, November 16, 2020 5:00 PM

**To:** Kupchan, Simma <Kupchan.Simma@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

**Subject:** RE: CAFO Petitions before OW

Simma,

We have asked to prepare a response to the FWW Petition and **Ex. 5 Deliberative Process (DP)** I am planning to put together a table summarizing the arguments that would build on the overview briefing document we did a few years ago. **Ex. 5 Deliberative Process (DP)**

# Ex. 5 Deliberative Process (DP)

Thanks!  
George

---

**From:** Kupchan, Simma <Kupchan.Simma@epa.gov>

**Sent:** Tuesday, July 21, 2020 1:27 PM

**To:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

**Subject:** RE: CAFO Petitions before OW

Fine by me.

Simma Kupchan  
EPA Office of General Counsel  
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WJC North Building # 7426Q  
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Thank you Simma.  
Andrew just asked for a copy of the response.  
Would it be okay to share?  
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**Subject:** RE: CAFO Petitions before OW

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**To:** Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>  
**Cc:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>  
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**To:** Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

**Cc:** Kupchan, Simma <Kupchan.Simma@epa.gov>

**Subject:** RE: CAFO Petitions before OW

Hi,  
Suggesting a few additional edits to clarify that EPA has a few different websites focused on petitions.

---

Good Morning Anna:

EPA has ~~two~~ distinct website pages regarding petitions. If we recall correctly, the Water Policy ~~branch~~ Staff in OW is responsible for the ~~other~~ petition page at <https://www.epa.gov/aboutepa/petitions-office-water> but we would need to look into the website program area to determine the owner.

The withdrawal petition page is owned and updated by OWM. Because the two petitions listed below are not withdrawal petitions, they were not uploaded to the OWM withdrawal petition website.

Regarding the 2017 FWW petition:

- The EPA team has met with FWW several times regarding this petition. Attached you will find a meeting summary of the March 8, 2017 meeting with FWW.

## Ex. 5 Deliberative Process (DP)

- Most recently, the team worked with the Ag Advisor to provide a response to FWW regarding their pending petition ~~this topic~~. We can share that response if you like.

## Ex. 5 Deliberative Process (DP)

---

**From:** Zobrist, Marcus <Zobrist.Marcus@epa.gov>  
**Sent:** Tuesday, July 21, 2020 11:12 AM  
**To:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>  
**Cc:** Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Subject:** RE: CAFO Petitions before OW

---

**From:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>  
**Sent:** Tuesday, July 21, 2020 10:56 AM  
**To:** Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>  
**Cc:** Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Subject:** RE: CAFO Petitions before OW

*Draft response below- please feel free to edit. Thanks.*

Good Morning Anna:

EPA has two distinct website pages regarding petitions:

1. The withdrawal petition page is owned and updated by OWM.
2. Because the two petitions listed below are not withdrawal petitions, they were not uploaded to the OWM withdrawal petition website.
3. If we recall correctly, the Water Policy branch in OW is responsible for the other petition page but we would need to look into the website program area to determine the owner.

Regarding the 2017 FWW petition:

- The EPA team has met with FWW several times regarding this petition. Attached you will find a meeting summary of the March 8, 2017 meeting with FWW.

## Ex. 5 Deliberative Process (DP)

- Most recently, the team worked with the Ag Advisor to provide a response to FWW regarding this topic. We can share that response if you like.

## Ex. 5 Deliberative Process (DP)

---

**From:** Molloy, Jennifer <molloy.jennifer@epa.gov>  
**Sent:** Tuesday, July 21, 2020 10:28 AM  
**To:** Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>  
**Cc:** Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Subject:** RE: CAFO Petitions before OW

Just wrapping in Simma and Marcus in case they want to add anything.

We did meet several times with FWW et al on the 2017 petition,

**Ex. 5 Deliberative Process (DP)**

# Ex. 5 Deliberative Process (DP)

Jennyh

Jenny Molloy

U.S. EPA

Water Permits Division

**Ex. 6 Personal Privacy (PP)**

[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

---

**From:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>

**Sent:** Tuesday, July 21, 2020 10:19 AM

**To:** Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Cc:** Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>

**Subject:** RE: CAFO Petitions before OW

Maria,

We have worked on the 2017 Food & Water Watch petition.

**Ex. 5 Deliberative Process (DP)**

# Ex. 5 Deliberative Process (DP)

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**From:** Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>

**Sent:** Tuesday, July 21, 2020 10:13 AM

**To:** Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Cc:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>

**Subject:** RE: CAFO Petitions before OW

Looping in Jenny. I don't know what the status of these are but these would have been assigned to the Industrial Branch since they aren't withdrawal petitions but instead focus on EPA's CAFO program requirements. I was aware of the Food and Water Watch petition [ there were some discussions when it came in] but I hadn't heard about the Buffalo River Alliance one.

---

**From:** Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>

**Sent:** Tuesday, July 21, 2020 10:02 AM

**To:** Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Cc:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>

**Subject:** FW: CAFO Petitions before OW

Good Morning Nizanna and Kevin:

Please see request below from Anna. Do you all have information on these petitions?

Adding George since its CAFO and maybe he has some knowledge on this.

Thank you  
Maria

---

**From:** Sawyers, Andrew <[Sawyers.Andrew@epa.gov](mailto:Sawyers.Andrew@epa.gov)>  
**Sent:** Tuesday, July 21, 2020 9:29 AM  
**To:** Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Kloss, Christopher <[Kloss.Christopher@epa.gov](mailto:Kloss.Christopher@epa.gov)>  
**Cc:** Miller, Wynne <[Miller.Wynne@epa.gov](mailto:Miller.Wynne@epa.gov)>; Sylvester, Francis <[Sylvester.Francis@epa.gov](mailto:Sylvester.Francis@epa.gov)>; Sylvester, Francis <[Sylvester.Francis@epa.gov](mailto:Sylvester.Francis@epa.gov)>  
**Subject:** FW: CAFO Petitions before OW

Hello Maria and Chris, please see the request from Anna below. Please let me know what you find out – thanks.

---

**From:** Wildeman, Anna <[wildeman.anna@epa.gov](mailto:wildeman.anna@epa.gov)>  
**Sent:** Tuesday, July 21, 2020 9:26 AM  
**To:** Sawyers, Andrew <[Sawyers.Andrew@epa.gov](mailto:Sawyers.Andrew@epa.gov)>  
**Cc:** Aguirre, Janita <[Aguirre.Janita@epa.gov](mailto:Aguirre.Janita@epa.gov)>  
**Subject:** FW: CAFO Petitions before OW

Andrew, can you find out for me if EPA responded to these two petitions? If yes, can you please send me our responses. If no, can you let me know if something is in process? Also see Tom's question below on the FWW petition—should it be on our website?

Thanks,  
Anna

---

**From:** Thomas Hebert <[tom.hebert@bayardridge.com](mailto:tom.hebert@bayardridge.com)>  
**Sent:** Tuesday, July 21, 2020 9:20 AM  
**To:** Wildeman, Anna <[wildeman.anna@epa.gov](mailto:wildeman.anna@epa.gov)>  
**Subject:** CAFO Petitions before OW

Hi Anna,

Below are two petitions. The first by Food and Water Watch et al (2017) is referenced in this story on their website: <https://www.foodandwaterwatch.org/news/dozens-advocacy-groups-challenge-epa-factory-farm-pollution>. If you Google the topic you will find several versions of this same story. To my great surprise, the 2017 petition is **not** listed on the OW website. (<https://www.epa.gov/aboutepa/petitions-office-water>). Food and Water watch says they filed it, there are dozens of reviews in the legal trade press about it, but it is not on your website? I can find no reference in the press, etc. to this 2017 petition being “withdrawn.” I am puzzled.

The second one (2015) is on your website.

I will be interested in hearing what you find out about both of these.

1. <https://buffaloriveralliance.org/resources/Pictures/citizens%20cafo%20cwa%20petition.pdf>
2. [https://www.epa.gov/sites/production/files/2016-09/documents/cwa\\_cafo\\_ebrotzman\\_9\\_2015.pdf](https://www.epa.gov/sites/production/files/2016-09/documents/cwa_cafo_ebrotzman_9_2015.pdf)

Best!

Tom

## Message

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**From:** Utting, George [Utting.George@epa.gov]  
**Sent:** 7/21/2020 2:32:32 PM  
**To:** Molloy, Jennifer [molloy.jennifer@epa.gov]; Bathersfield, Nizanna [Bathersfield.Nizanna@epa.gov]; Lopez-Carbo, Maria [Lopez-Carbo.Maria@epa.gov]; Weiss, Kevin [Weiss.Kevin@epa.gov]  
**CC:** Zobrist, Marcus [Zobrist.Marcus@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]  
**Subject:** FW: need TPs for Administrator by 11 a.m.  
**Attachments:** Summary - FWW Petition.docx; citizens\_cafo\_cwa\_petition.pdf

---

**From:** Molloy, Jennifer <molloy.jennifer@epa.gov>  
**Sent:** Monday, May 04, 2020 3:22 PM  
**To:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>  
**Cc:** Utting, George <Utting.George@epa.gov>  
**Subject:** RE: need TPs for Administrator by 11 a.m.

Here they are. George compiled the summary, probably almost 2 years ago.

Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939, while in the office

### Ex. 6 Personal Privacy (PP)

[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

---

**From:** Lopez-Carbo, Maria  
**Sent:** Monday, May 4, 2020 3:18 PM  
**To:** Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>  
**Subject:** RE: need TPs for Administrator by 11 a.m.

Thanks Jenny for the heads up.  
Sally mentioned this during her transition meeting for us to follow up on.

Do you mind sharing the documents that you shared with Mary below? They dropped off the email chain.

Thanks  
Maria

---

**From:** Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>  
**Sent:** Monday, May 4, 2020 12:00 PM  
**To:** Schollhamer, Mary <[Schollhamer.Mary@epa.gov](mailto:Schollhamer.Mary@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>  
**Cc:** Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>  
**Subject:** RE: need TPs for Administrator by 11 a.m.

## Ex. 5 Deliberative Process (DP)

Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939, while in the office

**Ex. 6 Personal Privacy (PP)**

[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

---

**From:** Schollhamer, Mary  
**Sent:** Monday, May 4, 2020 11:56 AM  
**To:** Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>  
**Subject:** RE: need TPs for Administrator by 11 a.m.

Thanks! This is very helpful. I'll try to figure out why the Administrator wants to talk about this. But, do we have any talking points that we can share publicly? If not, I'll see if they're still needed.

Mary G Schollhamer  
Communications Director  
Office of Wastewater Management  
U.S. Environmental Protection Agency  
Office: 202-564-5759

**Ex. 6 Personal Privacy (PP)**

[schollhamer.mary@epa.gov](mailto:schollhamer.mary@epa.gov)

*Office of Wastewater Management: Solutions for Clean Water*

---

**From:** Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>  
**Sent:** Monday, May 04, 2020 11:36 AM  
**To:** Schollhamer, Mary <[Schollhamer.Mary@epa.gov](mailto:Schollhamer.Mary@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>  
**Subject:** FW: need TPs for Administrator by 11 a.m.

WITH the petition...

Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939, while in the office

**Ex. 6 Personal Privacy (PP)**

[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

---

**From:** Molloy, Jennifer  
**Sent:** Monday, May 4, 2020 11:33 AM  
**To:** Schollhamer, Mary <[Schollhamer.Mary@epa.gov](mailto:Schollhamer.Mary@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>  
**Subject:** RE: need TPs for Administrator by 11 a.m.

Sorry – I hit accidentally hit “send” before I could provide a bit more context. Attached is the petition, and a summary of what it’s asking for, as well as a chronology of our initial actions pertaining to it.

Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939, while in the office



**Ex. 6 Personal Privacy (PP)**

[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

---

**From:** Molloy, Jennifer

**Sent:** Monday, May 4, 2020 11:28 AM

**To:** Schollhamer, Mary <[Schollhamer.Mary@epa.gov](mailto:Schollhamer.Mary@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>

**Subject:** RE: need TPs for Administrator by 11 a.m.

Yes – Food and Water Watch submitted a petition to EPA on the CAFO program, requesting changes to the program. We had a few meetings with them back when Deborah was still Division Director, but we never formally responded.

Jenny Molloy

U.S. EPA

Water Permits Division

202.564.1939, while in the office

**Ex. 6 Personal Privacy (PP)**

[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

---

**From:** Schollhamer, Mary

**Sent:** Monday, May 4, 2020 11:20 AM

**To:** Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>

**Subject:** FW: need TPs for Administrator by 11 a.m.

Hello – Do you know anything about a 2017 CAFO petition?

Mary G Schollhamer

Communications Director

Office of Wastewater Management

U.S. Environmental Protection Agency

Office: 202-564-5759

**Ex. 6 Personal Privacy (PP)**

[schollhamer.mary@epa.gov](mailto:schollhamer.mary@epa.gov)

*Office of Wastewater Management: Solutions for Clean Water*

---

**From:** Risley, David <[Risley.David@epa.gov](mailto:Risley.David@epa.gov)>

**Sent:** Monday, May 04, 2020 10:56 AM

**To:** Schollhamer, Mary <[Schollhamer.Mary@epa.gov](mailto:Schollhamer.Mary@epa.gov)>

**Subject:** Fwd: need TPs for Administrator by 11 a.m.

Here's what I just called about. Deadline is 12:30 if possible.

David Risley

EPA Office of Water Communications

Office: 202-343-9177

**Ex. 6 Personal Privacy (PP)**

Begin forwarded message:

**From:** "Sharpe, Kristinn" <[Sharpe.Kristinn@epa.gov](mailto:Sharpe.Kristinn@epa.gov)>

**Date:** May 4, 2020 at 8:55:56 AM EDT

**To:** "Risley, David" <[Risley.David@epa.gov](mailto:Risley.David@epa.gov)>

Cc: "Shaw, Nena" <[Shaw.Nena@epa.gov](mailto:Shaw.Nena@epa.gov)>  
Subject: need TPs for Administrator by 11 a.m.

Hi David,

I apologize for the late notice, but we were just asked for talking points on the status of three topics for an Administrator call with Farm Bureau and Cattlemen's tomorrow. If you can please send whatever you have already prepared (bulleted format is fine) on the NPDES MSGP, PFAS, and the enviro CAFO petition that was filed in 2017 by 11 a.m. today, that would be super appreciated. Let me know if I should reach out to someone else (OGC for that last one, for example)...

Thank you, thank you!  
Kristinn

Kristinn L. Sharpe  
Smart Sectors Program Communications Director  
U.S. Environmental Protection Agency  
Office: (202) 343-9062  

Ex. 6 Personal Privacy (PP)

  
[www.epa.gov/smartsectors](http://www.epa.gov/smartsectors)



Message

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**From:** Utting, George [Utting.George@epa.gov]  
**Sent:** 11/2/2020 11:14:31 PM  
**To:** Zobrist, Marcus [Zobrist.Marcus@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Lopez-Carbo, Maria [Lopez-Carbo.Maria@epa.gov]  
**Subject:** RE: ELGs

Sorry – I'm a little rusty – the relevant NSPS are only for swine, poultry, and veal calves; NSPS for other sectors is the 25/24 storm event (same as BAT).

---

**From:** Utting, George  
**Sent:** Monday, November 02, 2020 6:00 PM  
**To:** Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>  
**Subject:** RE: ELGs

FYI. The NSPS is not the 100 year storm. That's what we promulgated in 2002; it was revised I 2008 to exclude any discharges, based on 100-year rainfall data (which is a different standard).

---

**From:** Zobrist, Marcus <Zobrist.Marcus@epa.gov>  
**Sent:** Monday, November 02, 2020 5:55 PM  
**To:** Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>  
**Subject:** FW: ELGs

---

**From:** Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Sent:** Monday, November 02, 2020 5:06 PM  
**To:** Wood, Robert <Wood.Robert@epa.gov>; Levine, MaryEllen <levine.maryellen@epa.gov>  
**Cc:** Kloss, Christopher <Kloss.Christopher@epa.gov>; Nagle, Deborah <Nagle.Deborah@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>  
**Subject:** RE: ELGs

# Ex. 5 Attorney Client (AC)

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

---

**From:** Wood, Robert <Wood.Robert@epa.gov>  
**Sent:** Monday, November 2, 2020 3:47 PM

**To:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>; Levine, MaryEllen <[levine.maryellen@epa.gov](mailto:levine.maryellen@epa.gov)>  
**Cc:** Kloss, Christopher <[Kloss.Christopher@epa.gov](mailto:Kloss.Christopher@epa.gov)>; Nagle, Deborah <[Nagle.Deborah@epa.gov](mailto:Nagle.Deborah@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>  
**Subject:** RE: ELGs

# Ex. 5 Attorney Client (AC)

*Robert Wood, Director  
Engineering and Analysis Division  
U.S. EPA Office of Water  
202-566-1822*

---

**From:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>  
**Sent:** Monday, November 02, 2020 3:04 PM  
**To:** Levine, MaryEllen <[levine.maryellen@epa.gov](mailto:levine.maryellen@epa.gov)>; Wood, Robert <[Wood.Robert@epa.gov](mailto:Wood.Robert@epa.gov)>  
**Cc:** Kloss, Christopher <[Kloss.Christopher@epa.gov](mailto:Kloss.Christopher@epa.gov)>  
**Subject:** RE: ELGs

Rob,

# Ex. 5 Attorney Client (AC)

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

---

**From:** Levine, MaryEllen <[levine.maryellen@epa.gov](mailto:levine.maryellen@epa.gov)>  
**Sent:** Monday, November 2, 2020 1:05 PM  
**To:** Wood, Robert <[Wood.Robert@epa.gov](mailto:Wood.Robert@epa.gov)>

**Cc:** Kloss, Christopher <[Kloss.Christopher@epa.gov](mailto:Kloss.Christopher@epa.gov)>; Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>

**Subject:** RE: ELGs

Here's what I found – very drafty

- *Mary Ellen*

Mary Ellen Levine  
Assistant General Counsel  
Water Law Office, Office of General Counsel  
7510 C WJC North  
(202) 564-1345

---

**From:** Wood, Robert <[Wood.Robert@epa.gov](mailto:Wood.Robert@epa.gov)>

**Sent:** Monday, November 02, 2020 1:03 PM

**To:** Levine, MaryEllen <[levine.maryellen@epa.gov](mailto:levine.maryellen@epa.gov)>

**Cc:** Kloss, Christopher <[Kloss.Christopher@epa.gov](mailto:Kloss.Christopher@epa.gov)>; Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>

**Subject:** Re: ELGs

Hi everybody,

I would like to pull together a very brief status report on the petition. Deborah recalls having some meetings with petitioners, but not sure where we left it. Simma, do you have any record? Thanks,

Rob

---

*Robert Wood, Director  
Engineering and Analysis Division  
U.S. EPA Office of Water  
202-566-1822*

On Nov 2, 2020, at 9:41 AM, Levine, MaryEllen <[levine.maryellen@epa.gov](mailto:levine.maryellen@epa.gov)> wrote:

**Ex. 5 Attorney Client (AC)**

- *Mary Ellen*

Mary Ellen Levine  
Assistant General Counsel  
Water Law Office, Office of General Counsel  
7510 C WJC North

(202) 564-1345

---

**From:** Wood, Robert <[Wood.Robert@epa.gov](mailto:Wood.Robert@epa.gov)>  
**Sent:** Monday, November 02, 2020 9:28 AM  
**To:** Levine, MaryEllen <[levine.maryellen@epa.gov](mailto:levine.maryellen@epa.gov)>  
**Subject:** FW: ELGs

Hi Mary Ellen,

Could you give me a call or alternatively an email reply with any information on the status of this? Thanks.

---

*Robert Wood, Director  
Engineering and Analysis Division  
U.S. EPA Office of Water  
202-566-1822*

---

**From:** Nagle, Deborah <[Nagle.Deborah@epa.gov](mailto:Nagle.Deborah@epa.gov)>  
**Sent:** Monday, November 02, 2020 9:21 AM  
**To:** Wood, Robert <[Wood.Robert@epa.gov](mailto:Wood.Robert@epa.gov)>  
**Subject:** FW: ELGs

You know about this?

---

**From:** Wildeman, Anna <[wildeman.anna@epa.gov](mailto:wildeman.anna@epa.gov)>  
**Sent:** Monday, November 2, 2020 9:00 AM  
**To:** Nagle, Deborah <[Nagle.Deborah@epa.gov](mailto:Nagle.Deborah@epa.gov)>  
**Cc:** Bertrand, Charlotte <[Bertrand.Charlotte@epa.gov](mailto:Bertrand.Charlotte@epa.gov)>  
**Subject:** ELGs

Deborah, are you aware of this petition that was filed in 2017 requesting that EPA update its ELGs for large CAFOs?

**Anna Wildeman**  
Principal Deputy Assistant Administrator  
Office of Water  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
202-564-5700  
[Wildeman.Anna@epa.gov](mailto:Wildeman.Anna@epa.gov)

Message

**From:** Lopez-Carbo, Maria [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=447508C93BB448E3924D1D90E474B446-MCARBO]  
**Sent:** 12/9/2020 8:54:13 PM  
**To:** Nguyen, Amelia [nguyen.amelia@epa.gov]  
**Subject:** RE: OW suggestions during the 12/8 biweekly meeting

Thank you!

---

**From:** Nguyen, Amelia <nguyen.amelia@epa.gov>  
**Sent:** Wednesday, December 9, 2020 2:23 PM  
**To:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Kloss, Christopher <Kloss.Christopher@epa.gov>; Chan, Jennifer <Chan.Jennifer@epa.gov>  
**Cc:** Sawyers, Andrew <Sawyers.Andrew@epa.gov>; Sylvester, Francis <Sylvester.Francis@epa.gov>; Miller, Wynne <Miller.Wynne@epa.gov>  
**Subject:** OW suggestions during the 12/8 biweekly meeting

Hey Chris, Maria, and Jennifer,

Only FYI in case a summary would be helpful.

**WPD**

- **Ex. 5 Deliberative Process (DP)**
- CAFO Petition: Anna suggested we continue working on this item. 

**Ex. 5 Deliberative Process (DP)**
- **Ex. 5 Deliberative Process (DP)**
- WQT NPRM
  - **Ex. 5 Deliberative Process (DP)**
  - ~~Janina/Emily/Chris; get docs to OW by 12/8 - Chris confirmed this has been done.~~
  - Chris *et al.*, please follow up with Andrew.
- Integrated Planning
  - **Ex. 5 Deliberative Process (DP)**

Sincerely,  
Amelia

---

Amelia Nguyen, Ph.D.  
Acting Special Assistant  
Office of Wastewater Management  
Office: 202-564-4268  
[nguyen.amelia@epa.gov](mailto:nguyen.amelia@epa.gov)

Message

**From:** Lopez-Carbo, Maria [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=447508C93BB448E3924D1D90E474B446-MCARBO]  
**Sent:** 7/21/2020 9:39:50 PM  
**To:** Sawyers, Andrew [Sawyers.Andrew@epa.gov]; Miller, Wynne [Miller.Wynne@epa.gov]  
**CC:** Weiss, Kevin [Weiss.Kevin@epa.gov]  
**Subject:** Streamlined Response for Anna- CAFO Petitions before OW  
**Attachments:** Summary - FWW Petition.docx

Good Afternoon Anna:

Regarding the 2017 FWW petition:

- The EPA team has met with FWW several times regarding this petition. Attached you will find summary of issues raised by FWW and our response at the time. The petition is still pending. **Ex. 5 Deliberative Process (DP)**

## Ex. 5 Deliberative Process (DP)

## Ex. 5 Deliberative Process (DP)

The *withdrawal petition* page is owned and updated by OWM. Because the two petitions listed below are not withdrawal petitions, they were not uploaded to the OWM withdrawal petition website. The regulatory petition page listed below <https://www.epa.gov/aboutepa/petitions-office-water> belongs to OPA.

**From:** Sawyers, Andrew <Sawyers.Andrew@epa.gov>  
**Sent:** Tuesday, July 21, 2020 1:04 PM  
**To:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Kloss, Christopher <Kloss.Christopher@epa.gov>  
**Cc:** Miller, Wynne <Miller.Wynne@epa.gov>; Sylvester, Francis <Sylvester.Francis@epa.gov>  
**Subject:** RE: CAFO Petitions before OW

Thanks Maria, I'll wait for a full response. However, as I read through your note below, I did not gather how we

### Ex. 5 Deliberative Process (DP)

### Ex. 5 Deliberative Process (DP)

**From:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>  
**Sent:** Tuesday, July 21, 2020 12:06 PM  
**To:** Sawyers, Andrew <Sawyers.Andrew@epa.gov>; Kloss, Christopher <Kloss.Christopher@epa.gov>  
**Cc:** Miller, Wynne <Miller.Wynne@epa.gov>; Sylvester, Francis <Sylvester.Francis@epa.gov>  
**Subject:** RE: CAFO Petitions before OW

*Good Morning Andrew – for your consideration, feel free to edit. I have reached out Macara to see if they own the website described below. I was not sure if you wanted to send the email to Anna with that not addressed or if you rather wait for Macara to respond and we can confirm if this website falls under her responsibility. Thanks.*

Good Morning Anna:

EPA has distinct website pages regarding petitions. The withdrawal petition page is owned and updated by OWM. Because the two petitions listed below are not withdrawal petitions, they were not uploaded to the OWM withdrawal



petition website. If we recall correctly, the Water Policy in OW is responsible for the petition page at <https://www.epa.gov/aboutepa/petitions-office-water> but we would need to look into the website program area to determine if they are the correct owners.

Regarding the 2017 FWW petition:

- The EPA team has met with FWW several times regarding this petition. Attached you will find information regarding the meeting EPA hosted with FWW in March 8 2017.

## Ex. 5 Deliberative Process (DP)

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**From:** Sawyers, Andrew <[Sawyers.Andrew@epa.gov](mailto:Sawyers.Andrew@epa.gov)>

**Sent:** Tuesday, July 21, 2020 9:29 AM

**To:** Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Kloss, Christopher <[Kloss.Christopher@epa.gov](mailto:Kloss.Christopher@epa.gov)>

**Cc:** Miller, Wynne <[Miller.Wynne@epa.gov](mailto:Miller.Wynne@epa.gov)>; Sylvester, Francis <[Sylvester.Francis@epa.gov](mailto:Sylvester.Francis@epa.gov)>; Sylvester, Francis <[Sylvester.Francis@epa.gov](mailto:Sylvester.Francis@epa.gov)>

**Subject:** FW: CAFO Petitions before OW

Hello Maria and Chris, please see the request from Anna below. Please let me know what you find out – thanks.

---

**From:** Wildeman, Anna <[wildeman.anna@epa.gov](mailto:wildeman.anna@epa.gov)>

**Sent:** Tuesday, July 21, 2020 9:26 AM

**To:** Sawyers, Andrew <[Sawyers.Andrew@epa.gov](mailto:Sawyers.Andrew@epa.gov)>

**Cc:** Aguirre, Janita <[Aguirre.Janita@epa.gov](mailto:Aguirre.Janita@epa.gov)>

**Subject:** FW: CAFO Petitions before OW

Andrew, can you find out for me if EPA responded to these two petitions? If yes, can you please send me our responses. If no, can you let me know if something is in process? Also see Tom's question below on the FWW petition—should it be on our website?

Thanks,  
Anna

---

**From:** Thomas Hebert <[tom.hebert@bayardridge.com](mailto:tom.hebert@bayardridge.com)>

**Sent:** Tuesday, July 21, 2020 9:20 AM

**To:** Wildeman, Anna <[wildeman.anna@epa.gov](mailto:wildeman.anna@epa.gov)>

**Subject:** CAFO Petitions before OW

Hi Anna,

Below are two petitions. The first by Food and Water Watch et al (2017) is referenced in this story on their website: <https://www.foodandwaterwatch.org/news/dozens-advocacy-groups-challenge-epa-factory-farm-pollution>. If you Google the topic you will find several versions of this same story. To my great surprise, the 2017 petition is not listed on

the OW website. (<https://www.epa.gov/aboutepa/petitions-office-water>). Food and Water watch says they filed it, there are dozens of reviews in the legal trade press about it, but it is not on your website? I can find no reference in the press, etc. to this 2017 petition being "withdrawn." I am puzzled.

The second one (2015) is on your website.

I will be interested in hearing what you find out about both of these.

1. <https://buffaloriveralliance.org/resources/Pictures/citizens%20cafo%20cwa%20petition.pdf>
2. [https://www.epa.gov/sites/production/files/2016-09/documents/cwa\\_cafo\\_ebrotzman\\_9\\_2015.pdf](https://www.epa.gov/sites/production/files/2016-09/documents/cwa_cafo_ebrotzman_9_2015.pdf)

Best!

Tom

Message

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**From:** Lopez-Carbo, Maria [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=447508C93BB448E3924D1D90E474B446-MCARBO]  
**Sent:** 7/21/2020 5:50:48 PM  
**To:** Utting, George [Utting.George@epa.gov]  
**Subject:** RE: CAFO Petitions before OW

Okay got it. so let me go ask Mary in case she knows. Thank you George.

---

**From:** Utting, George <Utting.George@epa.gov>  
**Sent:** Tuesday, July 21, 2020 1:50 PM  
**To:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>  
**Subject:** RE: CAFO Petitions before OW

I only saw a question forwarded from the communications office through Mary. Not a response. I believe the Administrator was going to have a conference call with some industry reps. My guess is that there was no written communication at that level.

---

**From:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>  
**Sent:** Tuesday, July 21, 2020 1:46 PM  
**To:** Utting, George <Utting.George@epa.gov>  
**Subject:** RE: CAFO Petitions before OW

Thank you George. I can use this one.

Do you happen to have the response that Mary S sent?

Thanks  
Maria

---

**From:** Utting, George <Utting.George@epa.gov>  
**Sent:** Tuesday, July 21, 2020 1:45 PM  
**To:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>  
**Subject:** RE: CAFO Petitions before OW

Adding my edits to Simma's on the 2017 FWW petition. I have edited the first bullet and struck out the third bullet.

\*\*\*\*\*

Good Morning Anna:

EPA has ~~two~~ distinct website pages regarding petitions. If we recall correctly, the Water Policy ~~branch~~ Staff in OW is responsible for the ~~other~~ petition page at <https://www.epa.gov/aboutepa/petitions-office-water> but we would need to look into the website program area to determine the owner.

The withdrawal petition page is owned and updated by OWM. Because the two petitions listed below are not withdrawal petitions, they were not uploaded to the OWM withdrawal petition website.

Regarding the 2017 FWW petition:

- The EPA team has met with FWW several times regarding this petition. Attached you will find a meeting summary of the March 8, 2017 meeting with issues raised by FWW and our response at the time.

## Ex. 5 Deliberative Process (DP)

- Most recently, the team worked with the Ag Advisor to provide a response to FWW regarding their pending petition this topic. We can share that response if you like.

## Ex. 5 Deliberative Process (DP)

**From:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>

**Sent:** Tuesday, July 21, 2020 1:36 PM

**To:** Utting, George <Utting.George@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

**Subject:** RE: CAFO Petitions before OW

Sorry, I realized that my spacing in the email below was off.

George- can you share the response? Thanks

**From:** Utting, George <Utting.George@epa.gov>

**Sent:** Tuesday, July 21, 2020 1:28 PM

**To:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

**Subject:** RE: CAFO Petitions before OW

Note my comments. If you like, I can provide an edit for the 2<sup>nd</sup> one, but I don't know what the answer to my first comment is – I have not seen anything that reflects ag advisor involvement.

**From:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>

**Sent:** Tuesday, July 21, 2020 1:24 PM

**To:** Kupchan, Simma <Kupchan.Simma@epa.gov>; Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

**Subject:** RE: CAFO Petitions before OW

Thank you Simma.

Andrew just asked for a copy of the response.

Would it be okay to share?

Thanks.

---

**From:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>

**Sent:** Tuesday, July 21, 2020 12:19 PM

**To:** Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Subject:** RE: CAFO Petitions before OW

Thanks, all. I proposed a few edits to the response to Anna, in strikethrough/red.

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

---

**From:** Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>

**Sent:** Tuesday, July 21, 2020 11:57 AM

**To:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Cc:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>

**Subject:** RE: CAFO Petitions before OW

thank you all.

Marcus- I can reach out to Macara, not a problem.

Thanks.  
Maria

---

**From:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>

**Sent:** Tuesday, July 21, 2020 11:34 AM

**To:** Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Cc:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>

**Subject:** RE: CAFO Petitions before OW

I have more in the way of question/suggestions rather than specific edits.

First, I am not sure whether or not the Ag Advisor's office has been involved. When I went back to look, I only see that there was an email from the Smart Sectors Communications Director through Mary Schollhamer. I do not recall whether there was actual involvement with the Ag Advisor's office.

Second, with respect to the attachment, it is more than just a meeting summary. It is a summary of the issues raised in the petition and subsequent steps taken to engage with the petitioners.

I've highlighted where both of these issues occur below.

---

**From:** Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>

**Sent:** Tuesday, July 21, 2020 11:23 AM

**To:** Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Molloy, Jennifer

<molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>

Subject: RE: CAFO Petitions before OW

Hi,  
Suggesting a few additional edits to clarify that EPA has a few different websites focused on petitions.

---

Good Morning Anna:

EPA has ~~two~~ distinct website pages regarding petitions. If we recall correctly, the Water Policy ~~branch~~ Staff in OW is responsible for the ~~other~~ petition page at <https://www.epa.gov/aboutepa/petitions-office-water> but we would need to look into the website program area to determine the owner.

The withdrawal petition page is owned and updated by OWM. Because the two petitions listed below are not withdrawal petitions, they were not uploaded to the OWM withdrawal petition website.

Regarding the 2017 FWW petition:

- The EPA team has met with FWW several times regarding this petition. Attached you will find a meeting summary of the March 8, 2017 meeting with FWW.

## Ex. 5 Deliberative Process (DP)

- Most recently, the team worked with the Ag Advisor to provide a response to FWW regarding their pending petition ~~this topic~~. We can share that response if you like.

## Ex. 5 Deliberative Process (DP)

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From: Zobrist, Marcus <Zobrist.Marcus@epa.gov>

Sent: Tuesday, July 21, 2020 11:12 AM

To: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>

Subject: RE: CAFO Petitions before OW

---

From: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>

Sent: Tuesday, July 21, 2020 10:56 AM

To: Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Weiss, Kevin <Weiss.kevin@epa.gov>

Cc: Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>

Subject: RE: CAFO Petitions before OW

*Draft response below- please feel free to edit. Thanks.*

Good Morning Anna:

EPA has two distinct website pages regarding petitions:

1. The withdrawal petition page is owned and updated by OWM.
2. Because the two petitions listed below are not withdrawal petitions, they were not uploaded to the OWM withdrawal petition website.
3. If we recall correctly, the Water Policy branch in OW is responsible for the other petition page but we would need to look into the website program area to determine the owner.

Regarding the 2017 FWW petition:

- The EPA team has met with FWW several times regarding this petition. Attached you will find a meeting summary of the March 8, 2017 meeting with FWW.

## Ex. 5 Deliberative Process (DP)

- Most recently, the team worked with the Ag Advisor to provide a response to FWW regarding this topic. We can share that response if you like.

## Ex. 5 Deliberative Process (DP)

From: Molloy, Jennifer <molloy.jennifer@epa.gov>

Sent: Tuesday, July 21, 2020 10:28 AM

To: Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

Cc: Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>

Subject: RE: CAFO Petitions before OW

Just wrapping in Simma and Marcus in case they want to add anything.

We did meet several times with FWW et al on the 2017 petition,

Ex. 5 Deliberative Process (DP)

## Ex. 5 Deliberative Process (DP)

Jennyh

Jenny Molloy

U.S. EPA

Water Permits Division

Ex. 6 Personal Privacy (PP)

molloy.jennifer@epa.gov

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**From:** Utting, George <Utting.George@epa.gov>

**Sent:** Tuesday, July 21, 2020 10:19 AM

**To:** Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

**Cc:** Molloy, Jennifer <molloy.jennifer@epa.gov>

**Subject:** RE: CAFO Petitions before OW

Maria,

We have worked on the 2017 Food & Water Watch petition.

Ex. 5 Deliberative Process (DP)

## Ex. 5 Deliberative Process (DP)

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**From:** Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>

**Sent:** Tuesday, July 21, 2020 10:13 AM

**To:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

**Cc:** Utting, George <Utting.George@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>

**Subject:** RE: CAFO Petitions before OW

Looping in Jenny. I don't know what the status of these are but these would have been assigned to the Industrial Branch since they aren't withdrawal petitions but instead focus on EPA's CAFO program requirements. I was aware of the Food and Water Watch petition [ there were some discussions when it came in] but I hadn't heard about the Buffalo River Alliance one.

---

**From:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>

**Sent:** Tuesday, July 21, 2020 10:02 AM

**To:** Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

**Cc:** Utting, George <Utting.George@epa.gov>

**Subject:** FW: CAFO Petitions before OW

Good Morning Nizanna and Kevin:

Please see request below from Anna. Do you all have information on these petitions?

Adding George since its CAFO and maybe he has some knowledge on this.

Thank you

Maria

---

**From:** Sawyers, Andrew <Sawyers.Andrew@epa.gov>

**Sent:** Tuesday, July 21, 2020 9:29 AM

**To:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Kloss, Christopher <Kloss.Christopher@epa.gov>

**Cc:** Miller, Wynne <Miller.Wynne@epa.gov>; Sylvester, Francis <Sylvester.Francis@epa.gov>; Sylvester, Francis <Sylvester.Francis@epa.gov>

**Subject:** FW: CAFO Petitions before OW



Hello Maria and Chris, please see the request from Anna below. Please let me know what you find out – thanks.

---

**From:** Wildeman, Anna <[wildeman.anna@epa.gov](mailto:wildeman.anna@epa.gov)>  
**Sent:** Tuesday, July 21, 2020 9:26 AM  
**To:** Sawyers, Andrew <[Sawyers.Andrew@epa.gov](mailto:Sawyers.Andrew@epa.gov)>  
**Cc:** Aguirre, Janita <[Aguirre.Janita@epa.gov](mailto:Aguirre.Janita@epa.gov)>  
**Subject:** FW: CAFO Petitions before OW

Andrew, can you find out for me if EPA responded to these two petitions? If yes, can you please send me our responses. If no, can you let me know if something is in process? Also see Tom's question below on the FWW petition—should it be on our website?

Thanks,  
Anna

---

**From:** Thomas Hebert <[tom.hebert@bayardridge.com](mailto:tom.hebert@bayardridge.com)>  
**Sent:** Tuesday, July 21, 2020 9:20 AM  
**To:** Wildeman, Anna <[wildeman.anna@epa.gov](mailto:wildeman.anna@epa.gov)>  
**Subject:** CAFO Petitions before OW

Hi Anna,

Below are two petitions. The first by Food and Water Watch et al (2017) is referenced in this story on their website: <https://www.foodandwaterwatch.org/news/dozens-advocacy-groups-challenge-epa-factory-farm-pollution>. If you Google the topic you will find several versions of this same story. To my great surprise, the 2017 petition is not listed on the OW website. (<https://www.epa.gov/aboutepa/petitions-office-water>). Food and Water watch says they filed it, there are dozens of reviews in the legal trade press about it, but it is not on your website? I can find no reference in the press, etc. to this 2017 petition being “withdrawn.” I am puzzled.

The second one (2015) is on your website.

I will be interested in hearing what you find out about both of these.

1. <https://buffaloriveralliance.org/resources/Pictures/citizens%20cafo%20cwa%20petition.pdf>
2. [https://www.epa.gov/sites/production/files/2016-09/documents/cwa\\_cafo\\_ebrotzman\\_9\\_2015.pdf](https://www.epa.gov/sites/production/files/2016-09/documents/cwa_cafo_ebrotzman_9_2015.pdf)

Best!

Tom

Message

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**From:** Lopez-Carbo, Maria [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=447508C93BB448E3924D1D90E474B446-MCARBO]  
**Sent:** 5/5/2020 12:26:20 PM  
**To:** Utting, George [Utting.George@epa.gov]  
**Subject:** RE: need TPs for Administrator by 11 a.m.

Not a problem. Chris and i have not read it so we can wait.  
Thank you.  
Maria

---

**From:** Utting, George <Utting.George@epa.gov>  
**Sent:** Tuesday, May 5, 2020 8:25 AM  
**To:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>  
**Subject:** RE: need TPs for Administrator by 11 a.m.

I will take a look and let you know. I might want to clarify things, depending on the audience. It was really internal WPD/OWM when it was originally written. Not much time for turnaround (and maybe too late at this point), but I'll give it a shot.

---

**From:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>  
**Sent:** Monday, May 04, 2020 7:09 PM  
**To:** Utting, George <Utting.George@epa.gov>  
**Subject:** RE: need TPs for Administrator by 11 a.m.

Hi George: if you want to make any edits to it, that's fine. Or if you are fine, then I'll take it as is.  
Thanks  
Maria

---

**From:** Utting, George <Utting.George@epa.gov>  
**Sent:** Monday, May 4, 2020 3:30 PM  
**To:** Molloy, Jennifer <molloy.jennifer@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>  
**Subject:** RE: need TPs for Administrator by 11 a.m.

Some of it looks like my writing, but I barely remember writing it. Also, it appears that I may have fed the analysis to Ross, who may have put together the final summary.

**Ex. 5 Deliberative Process (DP)**

**Ex. 5 Deliberative Process (DP)**

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**From:** Molloy, Jennifer <molloy.jennifer@epa.gov>  
**Sent:** Monday, May 04, 2020 3:22 PM  
**To:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>  
**Cc:** Utting, George <Utting.George@epa.gov>  
**Subject:** RE: need TPs for Administrator by 11 a.m.

Here they are. George compiled the summary, probably almost 2 years ago.

Jenny Molloy  
U.S. EPA

Water Permits Division  
202.564.1939, while in the office

**Ex. 6 Personal Privacy (PP)**

[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

---

**From:** Lopez-Carbo, Maria  
**Sent:** Monday, May 4, 2020 3:18 PM  
**To:** Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>  
**Subject:** RE: need TPs for Administrator by 11 a.m.

Thanks Jenny for the heads up.  
Sally mentioned this during her transition meeting for us to follow up on.

Do you mind sharing the documents that you shared with Mary below? They dropped off the email chain.  
Thanks  
Maria

---

**From:** Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>  
**Sent:** Monday, May 4, 2020 12:00 PM  
**To:** Schollhamer, Mary <[Schollhamer.Mary@epa.gov](mailto:Schollhamer.Mary@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>  
**Cc:** Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>  
**Subject:** RE: need TPs for Administrator by 11 a.m.

## Ex. 5 Deliberative Process (DP)

Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939, while in the office

**Ex. 6 Personal Privacy (PP)**

[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

---

**From:** Schollhamer, Mary  
**Sent:** Monday, May 4, 2020 11:56 AM  
**To:** Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>  
**Subject:** RE: need TPs for Administrator by 11 a.m.

Thanks! This is very helpful. I'll try to figure out why the Administrator wants to talk about this. But, do we have any talking points that we can share publicly? If not, I'll see if they're still needed.

Mary G Schollhamer  
Communications Director  
Office of Wastewater Management  
U.S. Environmental Protection Agency  
Office: 202-564-5759

**Ex. 6 Personal Privacy (PP)**

[schollhamer.mary@epa.gov](mailto:schollhamer.mary@epa.gov)

*Office of Wastewater Management: Solutions for Clean Water*

---

**From:** Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>

**Sent:** Monday, May 04, 2020 11:36 AM

**To:** Schollhamer, Mary <[Schollhamer.Mary@epa.gov](mailto:Schollhamer.Mary@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>

**Subject:** FW: need TPs for Administrator by 11 a.m.

WITH the petition...

Jenny Molloy

U.S. EPA

Water Permits Division

202.564.1939, while in the office

**Ex. 6 Personal Privacy (PP)**

[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

---

**From:** Molloy, Jennifer

**Sent:** Monday, May 4, 2020 11:33 AM

**To:** Schollhamer, Mary <[Schollhamer.Mary@epa.gov](mailto:Schollhamer.Mary@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>

**Subject:** RE: need TPs for Administrator by 11 a.m.

Sorry – I hit accidentally hit “send” before I could provide a bit more context. Attached is the petition, and a summary of what it’s asking for, as well as a chronology of our initial actions pertaining to it.

Jenny Molloy

U.S. EPA

Water Permits Division

202.564.1939, while in the office

**Ex. 6 Personal Privacy (PP)**

[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

---

**From:** Molloy, Jennifer

**Sent:** Monday, May 4, 2020 11:28 AM

**To:** Schollhamer, Mary <[Schollhamer.Mary@epa.gov](mailto:Schollhamer.Mary@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>

**Subject:** RE: need TPs for Administrator by 11 a.m.

Yes – Food and Water Watch submitted a petition to EPA on the CAFO program, requesting changes to the program. We had a few meetings with them back when Deborah was still Division Director, but we never formally responded.

Jenny Molloy

U.S. EPA

Water Permits Division

202.564.1939, while in the office

**Ex. 6 Personal Privacy (PP)**

[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

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**From:** Schollhamer, Mary

**Sent:** Monday, May 4, 2020 11:20 AM

**To:** Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>

**Subject:** FW: need TPs for Administrator by 11 a.m.

Hello – Do you know anything about a 2017 CAFO petition?

Mary G Schollhamer  
Communications Director  
Office of Wastewater Management  
U.S. Environmental Protection Agency  
Office: 202-564-5759

**Ex. 6 Personal Privacy (PP)**  
[schollhamer.mary@epa.gov](mailto:schollhamer.mary@epa.gov)

*Office of Wastewater Management: Solutions for Clean Water*

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**From:** Risley, David <[Risley.David@epa.gov](mailto:Risley.David@epa.gov)>  
**Sent:** Monday, May 04, 2020 10:56 AM  
**To:** Schollhamer, Mary <[Schollhamer.Mary@epa.gov](mailto:Schollhamer.Mary@epa.gov)>  
**Subject:** Fwd: need TPs for Administrator by 11 a.m.

Here's what I just called about. Deadline is 12:30 if possible.

David Risley  
EPA Office of Water Communications  
Office 202-343-9177

**Ex. 6 Personal Privacy (PP)**

Begin forwarded message:

**From:** "Sharpe, Kristinn" <[Sharpe.Kristinn@epa.gov](mailto:Sharpe.Kristinn@epa.gov)>  
**Date:** May 4, 2020 at 8:55:56 AM EDT  
**To:** "Risley, David" <[Risley.David@epa.gov](mailto:Risley.David@epa.gov)>  
**Cc:** "Shaw, Nena" <[Shaw.Nena@epa.gov](mailto:Shaw.Nena@epa.gov)>  
**Subject:** need TPs for Administrator by 11 a.m.

Hi David,

I apologize for the late notice, but we were just asked for talking points on the status of three topics for an Administrator call with Farm Bureau and Cattlemen's tomorrow. If you can please send whatever you have already prepared (bulleted format is fine) on the NPDES MSGP, PFAS, and the enviro CAFO petition that was filed in 2017 by 11 a.m. today, that would be super appreciated. Let me know if I should reach out to someone else (OGC for that last one, for example)...

Thank you, thank you!  
Kristinn

Kristinn L. Sharpe  
Smart Sectors Program Communications Director  
U.S. Environmental Protection Agency  
Office: (202) 343-9062

**Ex. 6 Personal Privacy (PP)**  
[www.epa.gov/smartsectors](http://www.epa.gov/smartsectors)



Message

**From:** Nguyen, Amelia [nguyen.amelia@epa.gov]  
**Sent:** 12/9/2020 11:46:32 AM  
**To:** Sawyers, Andrew [Sawyers.Andrew@epa.gov]; Sylvester, Francis [Sylvester.Francis@epa.gov]; Miller, Wynne [Miller.Wynne@epa.gov]  
**Subject:** RE: Internal Biweekly 12/8/20

Thank you, Andrew! I made minor editorial changes and added an update in the yellow highlight below. Wynne and Frank, are you ok with this summary? I'll share it with our divisions once I hear back from you.

Sincerely,  
Amelia

---

Amelia Nguyen, Ph.D.  
Acting Special Assistant  
Office of Wastewater Management  
Office: 202-564-4268  
[nguyen.amelia@epa.gov](mailto:nguyen.amelia@epa.gov)

---

**From:** Sawyers, Andrew <Sawyers.Andrew@epa.gov>  
**Sent:** Tuesday, December 08, 2020 2:49 PM  
**To:** Nguyen, Amelia <nguyen.amelia@epa.gov>; Sylvester, Francis <Sylvester.Francis@epa.gov>; Miller, Wynne <Miller.Wynne@epa.gov>  
**Subject:** RE: Internal Biweekly 12/8/20

Hello Amelia, I made some minor edits below for circulation to the divisions. Frank and Wynne, please review with Amelia – once you are okay, Frank/Amelia, please send to the divisions and we can have follow up conversation during our check-ins or set up separately.

---

**From:** Nguyen, Amelia <nguyen.amelia@epa.gov>  
**Sent:** Tuesday, December 8, 2020 11:27 AM  
**To:** Sylvester, Francis <Sylvester.Francis@epa.gov>; Sawyers, Andrew <Sawyers.Andrew@epa.gov>; Miller, Wynne <Miller.Wynne@epa.gov>  
**Subject:** RE: Internal Biweekly 12/8/20

Hey everyone,

Below is a draft summary of our action items:

**Chris and Maria**

- Avoid using DHC/Direct Hydrologic Connection v **Ex. 5 Deliberative Process (DP)**
- CAFO Petition: Anna suggested we continue working on this item **Ex. 5 Deliberative Process (DP)**
- **Ex. 5 Deliberative Process (DP)**
- WQT.NPRM **Ex. 5 Deliberative Process (DP)** est time on this big-
- Integrated Planning

**Ex. 5 Deliberative Process (DP)**

# Ex. 5 Deliberative Process (DP)

Sincerely,  
Amelia

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Amelia Nguyen, Ph.D.  
Acting Special Assistant  
Office of Wastewater Management  
Office: 202-564-4268  
[nguyen.amelia@epa.gov](mailto:nguyen.amelia@epa.gov)

---

**From:** Sylvester, Francis <[Sylvester.Francis@epa.gov](mailto:Sylvester.Francis@epa.gov)>  
**Sent:** Tuesday, December 08, 2020 9:04 AM  
**To:** Sawyers, Andrew <[Sawyers.Andrew@epa.gov](mailto:Sawyers.Andrew@epa.gov)>; Miller, Wynne <[Miller.Wynne@epa.gov](mailto:Miller.Wynne@epa.gov)>  
**Cc:** Nguyen, Amelia <[nguyen.amelia@epa.gov](mailto:nguyen.amelia@epa.gov)>  
**Subject:** Internal Biweekly 12/8/20

Hi,  
Attached is the internal biweekly agenda. Wynne, I added the CMS control number for the workforce grant in case someone asks for it for them to track it down.

Frank Sylvester  
U.S. Environmental Protection Agency  
Office of Wastewater Management  
Desk: (202) 564-1279  
N Ex. 6 Personal Privacy (PP)  
[sylvester.francis@epa.gov](mailto:sylvester.francis@epa.gov)



## Appointment

---

**From:** Molloy, Jennifer [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D58B88880EC245048A8B17A62EB915FA-MOLLOY, JENNIFER]  
**Sent:** 3/15/2017 2:02:27 PM  
**To:** Molloy, Jennifer [molloy.jennifer@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]

**Subject:** CAFO petition from F&WW et al

**Start:** 3/20/2017 7:30:00 PM  
**End:** 3/20/2017 8:00:00 PM  
**Show Time As:** Busy

**Required Attendees:** Kupchan, Simma

Message

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**From:** Subramanian, Hema [subramanian.hema@epa.gov]  
**Sent:** 5/5/2020 3:01:45 PM  
**To:** Subramanian, Hema [Subramanian.Hema@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]  
**Subject:** Subramanian, Hema sent you a message in Skype for Business

Molloy, Jennifer 10:48 AM:

Hi guys - sorry to bother, random Q. Do either of you happen to know what happened with the 2017 Food & Water Watch petition re: CAFO NPDES regs?

Molloy, Jennifer 10:55 AM:

As a matter of fact, we just had that query from another direction. We met with FWW a few times after they submitted it. The agency hasn't made any formal decision on a response.

Ex. 5 Deliberative Process (DP)

## Ex. 5 Deliberative Process (DP)

Subramanian, Hema 10:55 AM:

thank you jenn! george just told me that question came down another channel to you guys too.

Subramanian, Hema 10:55 AM:

\*jenny

Subramanian, Hema 10:56 AM:

Smart Sectors set up a meeting for the Administrator with AFBF & NCBA for today that we got pulled into last minute, and Scott said NCBA was going to ask about whether EPA acted on it

Subramanian, Hema 10:56 AM:

that's all i needed to know. thank you!

Molloy, Jennifer 10:57 AM:

## Ex. 5 Deliberative Process (DP)

Molloy, Jennifer 10:48 AM:

Hi guys - sorry to bother, random Q. Do either of you happen to know what happened with the 2017 Food & Water Watch petition re: CAFO NPDES regs?

Subramanian, Hema 11:00 AM:

ah, good to know, thank you as always

Message

---

**From:** Molloy, Jennifer [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D58B88880EC245048A8B17A62EB915FA-MOLLOY, JENNIFER]  
**Sent:** 3/24/2017 2:15:20 PM  
**To:** Magruder, DeMara [Magruder.Demara@epa.gov]  
**Subject:** RE: contact for FWW petition on CAFOs response letter

Okay. Since I don't have access to the system, how do/or to whom do I make the request?

Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939  
molloy.jennifer@epa.gov

---

**From:** Magruder, DeMara  
**Sent:** Friday, March 24, 2017 10:14 AM  
**To:** Molloy, Jennifer <molloy.jennifer@epa.gov>  
**Subject:** RE: contact for FWW petition on CAFOs response letter

Hi, Jenny. Can you request an extension please? Make it until the 31<sup>st</sup>. Then we will have time to complete the response.

Thank you.

DeMara

---

**From:** Molloy, Jennifer  
**Sent:** Friday, March 24, 2017 10:12 AM  
**To:** Magruder, DeMara <Magruder.Demara@epa.gov>  
**Cc:** Nagle, Deborah <Nagle.Deborah@epa.gov>; Abrams, Nancy <Abrams.Nancy@epa.gov>  
**Subject:** RE: contact for FWW petition on CAFOs response letter

Okay – the letter isn't quite complete yet since we don't know who the IO would like to designate as the contact.

Thanks so much.

Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939  
[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

---

**From:** Magruder, DeMara  
**Sent:** Friday, March 24, 2017 10:10 AM  
**To:** Molloy, Jennifer <molloy.jennifer@epa.gov>  
**Cc:** Nagle, Deborah <Nagle.Deborah@epa.gov>; Abrams, Nancy <Abrams.Nancy@epa.gov>  
**Subject:** RE: contact for FWW petition on CAFOs response letter

Okay. I will upload to CMS and send for approvals. These controls for the AA's signature are finalized downstairs with Diane Jones-Coleman. So, all we do it upload and send on. I will ask for an extension if I can get the control back into my box.

Thank you.

DeMara

---

**From:** Molloy, Jennifer  
**Sent:** Friday, March 24, 2017 10:07 AM  
**To:** Magruder, DeMara <[Magruder.Demara@epa.gov](mailto:Magruder.Demara@epa.gov)>  
**Cc:** Nagle, Deborah <[Nagle.Deborah@epa.gov](mailto:Nagle.Deborah@epa.gov)>; Abrams, Nancy <[Abrams.Nancy@epa.gov](mailto:Abrams.Nancy@epa.gov)>  
**Subject:** FW: contact for FWW petition on CAFOs response letter

DeMara:

Just in case the 'fill in the blank' info came back from the OW IO via a different route, I wanted to make sure you have the draft letter to load into CMS. Nancy called Ann Campbell about this yesterday, but didn't hear back. I've left Ann vm and e-mail messages this morning. I'll keep trying, but it's possible that the decision was communicated to someone else, and I don't want to hold things up if that's the case. So – here's the draft response. As I understand it, the response has been cleared, we just needed to have the appropriate contact person to include in the letter.

This is Control AX-17-000-5937, and the due date was yesterday.

Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939  
[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

---

**From:** Molloy, Jennifer  
**Sent:** Friday, March 24, 2017 7:24 AM  
**To:** Campbell, Ann <[Campbell.Ann@epa.gov](mailto:Campbell.Ann@epa.gov)>  
**Subject:** contact for FWW petition on CAFOs response letter

Ann:

I also left you a vm. Sorry for the redundancy, just not sure of the fastest way to get in touch with you.

You talked briefly with Nancy Abrams yesterday about a contact name to put in the attached letter. If you could let me know who that would be that would be greatly appreciated.

Thanks, Jenny

Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939  
[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

Message

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**From:** Magruder, DeMara [Magruder.Demara@epa.gov]  
**Sent:** 3/24/2017 4:49:32 PM  
**To:** Molloy, Jennifer [molloy.jennifer@epa.gov]  
**Subject:** RE: contact for FWW petition on CAFOs response letter

You're welcome! Deborah says the letter is fine. I am just adding her email address to the letter and moving it on for approvals and finalization.

Thanks!

DeMara

---

**From:** Molloy, Jennifer  
**Sent:** Friday, March 24, 2017 12:19 PM  
**To:** Magruder, DeMara <Magruder.Demara@epa.gov>  
**Subject:** RE: contact for FWW petition on CAFOs response letter

Marvelous! One less loose end to tie up on Monday morning.

Thanks, Jenny

Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939  
[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

---

**From:** Magruder, DeMara  
**Sent:** Friday, March 24, 2017 12:15 PM  
**To:** Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>  
**Cc:** Nagle, Deborah <[Nagle.Deborah@epa.gov](mailto:Nagle.Deborah@epa.gov)>; Abrams, Nancy <[Abrams.Nancy@epa.gov](mailto:Abrams.Nancy@epa.gov)>  
**Subject:** RE: contact for FWW petition on CAFOs response letter

You're welcome. I asked for the extension and it was approved.

I will upload this response and show it to Deborah.

Thanks!

DeMara

---

**From:** Molloy, Jennifer  
**Sent:** Friday, March 24, 2017 11:11 AM  
**To:** Magruder, DeMara <[Magruder.Demara@epa.gov](mailto:Magruder.Demara@epa.gov)>  
**Cc:** Nagle, Deborah <[Nagle.Deborah@epa.gov](mailto:Nagle.Deborah@epa.gov)>; Abrams, Nancy <[Abrams.Nancy@epa.gov](mailto:Abrams.Nancy@epa.gov)>  
**Subject:** RE: contact for FWW petition on CAFOs response letter

DeMara:

We just received the missing info, so the attached is complete – other than the fact that I'm not sure what Mike Shapiro's typical signature block looks like. Also, Deborah may want to look at it one more time to ensure that this refers to her in the way she prefers (or maybe you know that).

Thanks for your help.

Jenny

Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939  
[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

---

**From:** Molloy, Jennifer  
**Sent:** Friday, March 24, 2017 10:12 AM  
**To:** Magruder, DeMara <[Magruder.Demara@epa.gov](mailto:Magruder.Demara@epa.gov)>  
**Cc:** Nagle, Deborah <[Nagle.Deborah@epa.gov](mailto:Nagle.Deborah@epa.gov)>; Abrams, Nancy <[Abrams.Nancy@epa.gov](mailto:Abrams.Nancy@epa.gov)>  
**Subject:** RE: contact for FWW petition on CAFOs response letter

Okay – the letter isn't quite complete yet since we don't know who the IO would like to designate as the contact.

Thanks so much.

Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939  
[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

---

**From:** Magruder, DeMara  
**Sent:** Friday, March 24, 2017 10:10 AM  
**To:** Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>  
**Cc:** Nagle, Deborah <[Nagle.Deborah@epa.gov](mailto:Nagle.Deborah@epa.gov)>; Abrams, Nancy <[Abrams.Nancy@epa.gov](mailto:Abrams.Nancy@epa.gov)>  
**Subject:** RE: contact for FWW petition on CAFOs response letter

Okay. I will upload to CMS and send for approvals. These controls for the AA's signature are finalized downstairs with Diane Jones-Coleman. So, all we do it upload and send on. I will ask for an extension if I can get the control back into my box.

Thank you.

DeMara

---

**From:** Molloy, Jennifer  
**Sent:** Friday, March 24, 2017 10:07 AM  
**To:** Magruder, DeMara <[Magruder.Demara@epa.gov](mailto:Magruder.Demara@epa.gov)>  
**Cc:** Nagle, Deborah <[Nagle.Deborah@epa.gov](mailto:Nagle.Deborah@epa.gov)>; Abrams, Nancy <[Abrams.Nancy@epa.gov](mailto:Abrams.Nancy@epa.gov)>  
**Subject:** FW: contact for FWW petition on CAFOs response letter

DeMara:

Just in case the 'fill in the blank' info came back from the OW IO via a different route, I wanted to make sure you have the draft letter to load into CMS. Nancy called Ann Campbell about this yesterday, but didn't hear back. I've left Ann vm and e-mail messages this morning. I'll keep trying, but it's possible that the decision was communicated to someone else, and I don't want to hold things up if that's the case. So – here's the draft response. As I understand it, the response has been cleared, we just needed to have the appropriate contact person to include in the letter.

This is Control AX-17-000-5937, and the due date was yesterday.

Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939  
[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

---

**From:** Molloy, Jennifer  
**Sent:** Friday, March 24, 2017 7:24 AM  
**To:** Campbell, Ann <[Campbell.Ann@epa.gov](mailto:Campbell.Ann@epa.gov)>  
**Subject:** contact for FWW petition on CAFOs response letter

Ann:

I also left you a vm. Sorry for the redundancy, just not sure of the fastest way to get in touch with you.

You talked briefly with Nancy Abrams yesterday about a contact name to put in the attached letter. If you could let me know who that would be that would be greatly appreciated.

Thanks, Jenny

Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939  
[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

Message

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**From:** Abrams, Nancy [Abrams.Nancy@epa.gov]  
**Sent:** 3/16/2017 12:59:47 PM  
**To:** Molloy, Jennifer [molloy.jennifer@epa.gov]  
**Subject:** FW: CAFO Rulemaking Petition

See email chain

---

**From:** Levine, MaryEllen  
**Sent:** Thursday, March 16, 2017 8:57 AM  
**To:** Nagle, Deborah <Nagle.Deborah@epa.gov>; Abrams, Nancy <Abrams.Nancy@epa.gov>  
**Subject:** FW: CAFO Rulemaking Petition

FYI re the new petition.

---

**From:** Neugeboren, Steven  
**Sent:** Thursday, March 16, 2017 8:27 AM  
**To:** Michael Formica <formicam@nppc.org>  
**Cc:** Levine, MaryEllen <levine.maryellen@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Subject:** RE: CAFO Rulemaking Petition

Thanks for the heads up. Happy to help there be engagement. In terms of process, that's really in the hands of OW so they'd be the ones to speak to that question (we as you would expect, function in a legal advisory capacity). So I think the most efficient/effective meeting would be with OW and us, and I'd be happy to facilitate that if needed. Suggest perhaps you could reach out to Andrew Sawyers with this request and you could copy me? I could give him a heads up if you'd like to do that.

Steven Neugeboren  
Associate General Counsel  
Water Law Office  
Environmental Protection Agency  
202-564-5488

---

**From:** Michael Formica [mailto:formicam@nppc.org]  
**Sent:** Tuesday, March 14, 2017 5:18 PM  
**To:** Neugeboren, Steven <Neugeboren.Steven@epa.gov>  
**Subject:** CAFO Rulemaking Petition

Steve

Any time in the coming days for a short call to chat with myself and a couple of other industry lawyers (Danielle Quist at Farm Bureau, Scott Yeager with National Cattlemen) about the recent Food & Water Watch Petition requesting that EPA re-opens the CAFO rule for substantial further changes? Wanted to make sure we had a good understanding of the internal process at EPA for handling a petition like that, and make sure OGC is aware of it since the petition requests that EPA develop regulations that undermine and contradict a number of prior court decisions.

A copy of the petition is attached. Hope all is well.

*Michael C. Formica*  
Assistant Vice President & Legal Counsel, Domestic Policy



National Pork Producers Council  
202.680.3820

## Appointment

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**From:** Molloy, Jennifer [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D58B88880EC245048A8B17A62EB915FA-MOLLOY, JENNIFER]  
**Sent:** 3/15/2017 2:02:27 PM  
**To:** Molloy, Jennifer [molloy.jennifer@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]

**Subject:** CAFO petition from F&WW et al  
**Attachments:** citizens\_cafo\_cwa\_petition.pdf

**Start:** 3/20/2017 7:30:00 PM  
**End:** 3/20/2017 8:00:00 PM  
**Show Time As:** Busy

**Required Attendees:** Kupchan, Simma

No conference rooms over here, so I can either come there or we can do this via phone. Let me know.

Attached is the relevant petition

Message

**From:** Molloy, Jennifer [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D58B88880EC245048A8B17A62EB915FA-MOLLOY, JENNIFER]  
**Sent:** 10/18/2017 11:52:51 AM  
**To:** Gable, Kelly [Gable.Kelly@epa.gov]  
**Subject:** RE: Food & Water Watch et al CAFO petition

It's in the Water Permits Division since it's about the NPDES CAFO program. Simma Kupchan **Ex. 6 Personal Privacy (PP)** has been the OGC attorney of record so far, though Mary Ellen Levine (her supervisor) has also been involved. The petitioners submitted it to EPA on March 8. I don't recall the exact date it hit our office, but I can see on my calendar that Simma and I were already drafting a response (very simple – just an acknowledgement that we'd received it and offering to meet and discuss) by March 20. We've had 2 meetings with the petitioners since then. However, since OW still doesn't have an AA, no decisions about how to handle it have been made.

Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939  
[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

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**From:** Gable, Kelly  
**Sent:** Tuesday, October 17, 2017 4:39 PM  
**To:** Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>  
**Subject:** RE: Food & Water Watch et al CAFO petition

Jenny, what was the date we received this? Also, do you know if this is being handled by any particular department, or if an OGC attorney has been assigned? I'm trying to write up a short blurb for our Regional Counsel. Also, FYI, our Deputy Regional Administrator (Cecil) asked for a copy and I circulated it to him and some others here at the Region.

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**From:** Molloy, Jennifer  
**Sent:** Tuesday, October 17, 2017 8:11 AM  
**To:** Galloway, Carol <[Galloway.Carol@epa.gov](mailto:Galloway.Carol@epa.gov)>; Adams, Margery <[adams.margery@epa.gov](mailto:adams.margery@epa.gov)>; Arvizu, Christy <[Arvizu.Christy@epa.gov](mailto:Arvizu.Christy@epa.gov)>; Atkinson, Benjamin <[atkinson.ben@epa.gov](mailto:atkinson.ben@epa.gov)>; Bahr, Ryan <[bahr.ryan@epa.gov](mailto:bahr.ryan@epa.gov)>; Blanco-Gonzalez, Joel <[Blanco-Gonzalez.Joel@epa.gov](mailto:Blanco-Gonzalez.Joel@epa.gov)>; Boisclair, Diane <[boisclair.diane@epa.gov](mailto:boisclair.diane@epa.gov)>; Bonnelycke, Nina <[Bonnelycke.Nina@epa.gov](mailto:Bonnelycke.Nina@epa.gov)>; Breedlove, Dan <[Breedlove.Dan@epa.gov](mailto:Breedlove.Dan@epa.gov)>; Bukhari, Samir <[Bukhari.Samir@epa.gov](mailto:Bukhari.Samir@epa.gov)>; Burdett, Cheryl <[burdett.cheryl@epa.gov](mailto:burdett.cheryl@epa.gov)>; Bush, William <[Bush.William@epa.gov](mailto:Bush.William@epa.gov)>; Campbell, Gwen <[Campbell.Gwen@epa.gov](mailto:Campbell.Gwen@epa.gov)>; Chang-Vaughan, Ellen <[Chang-Vaughan.Ellen@epa.gov](mailto:Chang-Vaughan.Ellen@epa.gov)>; Chase, Felicia <[chase.felicia@epa.gov](mailto:chase.felicia@epa.gov)>; Coats, Andrea <[Coats.Andrea@epa.gov](mailto:Coats.Andrea@epa.gov)>; Cozad, David <[Cozad.David@epa.gov](mailto:Cozad.David@epa.gov)>; Dart, Denny <[Dart.Denny@epa.gov](mailto:Dart.Denny@epa.gov)>; Davies, Lauris <[Davies.Lauris@epa.gov](mailto:Davies.Lauris@epa.gov)>; Drelich, David <[Drelich.David@epa.gov](mailto:Drelich.David@epa.gov)>; Duchovnay, Andrew <[Duchovnay.Andrew@epa.gov](mailto:Duchovnay.Andrew@epa.gov)>; Gable, Kelly <[Gable.Kelly@epa.gov](mailto:Gable.Kelly@epa.gov)>; Greenberg, Ken <[Greenberg.Ken@epa.gov](mailto:Greenberg.Ken@epa.gov)>; Greenwald, Kathryn <[Greenwald.Kathryn@epa.gov](mailto:Greenwald.Kathryn@epa.gov)>; Hamera, Donald <[Hamera.Don@epa.gov](mailto:Hamera.Don@epa.gov)>; Heinemann, Kristina <[Heinemann.Kristina@epa.gov](mailto:Heinemann.Kristina@epa.gov)>; Herbert, Rusty <[Herbert.Rusty@epa.gov](mailto:Herbert.Rusty@epa.gov)>; Hom, Michael <[Hom.Michael@epa.gov](mailto:Hom.Michael@epa.gov)>; Huffman, Diane <[Huffman.Diane@epa.gov](mailto:Huffman.Diane@epa.gov)>; Jackson, Julia <[Jackson.Julia@epa.gov](mailto:Jackson.Julia@epa.gov)>; Jann, Stephen <[jann.stephen@epa.gov](mailto:jann.stephen@epa.gov)>; Joe, Don <[Joe.Don@epa.gov](mailto:Joe.Don@epa.gov)>; Schefski, Melissa <[Schefski.Melissa@epa.gov](mailto:Schefski.Melissa@epa.gov)>; Kenknight, Jeff <[Kenknight.Jeff@epa.gov](mailto:Kenknight.Jeff@epa.gov)>; Kermish, Laurie <[Kermish.Laurie@epa.gov](mailto:Kermish.Laurie@epa.gov)>; Kroening, Peg <[Kroening.Margaret@epa.gov](mailto:Kroening.Margaret@epa.gov)>; Kuefler, Patrick <[kuefler.patrick@epa.gov](mailto:kuefler.patrick@epa.gov)>; Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>; Kwok, Rose <[Kwok.Rose@epa.gov](mailto:Kwok.Rose@epa.gov)>; Lane, Willie <[Lane.Willie@epa.gov](mailto:Lane.Willie@epa.gov)>;

Lister, Chris <Lister.Chris@epa.gov>; Livingston, Peggy <Livingston.Peggy@epa.gov>; Lopez, Jaime <Lopez.Jaime@epa.gov>; Lukowich, Michael <lukowich.michael@epa.gov>; Massey, Michael <Massey.Michael@epa.gov>; McDonald, Scott <mcdonald.scott@epa.gov>; Mikalian, Charles <mikalian.charles@epa.gov>; Mitschele, Becky <Mitschele.Becky@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Moody, Jonathan <moody.jonathan@epa.gov>; Moores, Steven <Moores.Steven@epa.gov>; Morgan, James <Morgan.James@epa.gov>; Mortensen, Ginah <mortensen.ginah@epa.gov>; Ogle, Kimberly <Ogle.Kimberly@epa.gov>; Oviedo, Luis <oviedo.luis@epa.gov>; Peak, Nicholas <Peak.Nicholas@epa.gov>; Plymale, Chris <Plymale.Christopher@epa.gov>; Pollard, Stephen <Pollard.Stephen@epa.gov>; Porter, Donna <Porter.Donna@epa.gov>; Potokar, Steven <Potokar.Steven@epa.gov>; Rogers, Joan <rogers.joan@epa.gov>; Sampath, Sam <Sampath.Sam@epa.gov>; Schwer, Don <Schwer.Don@epa.gov>; Segall, Martha <Segall.Martha@epa.gov>; Senkayi, Abu <Senkayi.Abu@epa.gov>; Silver, Wendy <Silver.Wendy@epa.gov>; Sipe, Diane <Sipe.Diane@epa.gov>; Socha, Julianne <socha.julianne@epa.gov>; Stokely, Peter <Stokely.Peter@epa.gov>; Sullivan, Tim <Sullivan.Tim@epa.gov>; Sutin, Elyana <Sutin.Elyana@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>; Thomas, Lee <Thomas.Lee@epa.gov>; Thompson, Robert <thompson.robertl@epa.gov>; Thuot, Lisa <Thuot.Lisa@epa.gov>; Tipton, Lantz <tipton.lantz@epa.gov>; Urban, Trevor <Urban.Trevor@epa.gov>; Utting, George <Utting.George@epa.gov>; Vanlerberghe, Daren <Vanlerberghe.Daren@epa.gov>; VanTil, Barbara <vantil.barbara@epa.gov>; Vuilleumier, Kevin <vuilleumier.kevin@epa.gov>; Weiler, Eaton <weiler.eaton@epa.gov>; Whitson, Amelia <Whitson.Amelia@epa.gov>; Williams, Nancy <Williams.Nancy@epa.gov>; Wills, Carl <Wills.Carl@epa.gov>; Witt, Richard <Witt.Richard@epa.gov>; Zolandz, Mark <Zolandz.Mark@epa.gov>; Boeglin, Michael <Boeglin.Michael@epa.gov>; Vezner, Kris <vezner.kris@epa.gov>; Ibarra, Juan <Ibarra.Juan@epa.gov>; Draper, Seth <Draper.Seth@epa.gov>; Anderson, Kate <Anderson.Kate@epa.gov>; Wetherington, Michele <Wetherington.Michele@epa.gov>; Savino, Kathleen <Savino.Kathleen@epa.gov>; Chan, Janice <Chan.Janice@epa.gov>; Goldstein, Jessica <goldstein.jessica@epa.gov>; Cooper, William F <Cooper.WilliamF@epa.gov>; Quigley, Heather <Quigley.Heather@epa.gov>; Mills, Clarissa <mills.clarissa@epa.gov>; Rise, David <rise.david@epa.gov>; Saporita, Chris <Saporita.Chris@epa.gov>; Smith, Brittany <Smith.Brittany@epa.gov>; Arcaya, Alyssa <arcaya.alyssa@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>; Nguyen, Quoc <Nguyen.Quoc@epa.gov>; Cc: Ordonez, Efren <Ordonez.Efren@epa.gov>; Henson, Tucker <Henson.Tucker@epa.gov>; Murdock, Russell <Murdock.Russell@epa.gov>; Campbell, Rich <Campbell.Rich@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Ziobro, Joseph <Ziobro.Joseph@epa.gov>; Gholson, Greg <Gholson.Greg@epa.gov>; Bandrowicz, Toni <bandrowicz.toni@epa.gov>; Grubb, Christopher <Grubb.Christopher@epa.gov>; Roberts, Connie <Roberts.Connie@epa.gov>; Jones, Kristin <jones.kristin@epa.gov>; Hodaj, Andi <hodaj.andi@epa.gov>; Kostek, Daniel <kostek.daniel@epa.gov>; Johnston, Carey <Johnston.Carey@epa.gov>; Yourish, Jesse <yourish.jesse@epa.gov>; Gioffre, Patricia <Gioffre.Patricia@epa.gov>; Nina Bonnelycke <nbonnelycke@msn.com>; Clark, Amy <Clark.Amy@epa.gov>; Juarez, Paul <Juarez.Paul@epa.gov>; Smith, DavidW <Smith.DavidW@epa.gov>; O'Lone, Dan <Olone.Dan@epa.gov>; Armor, Suzanne <Armor.Suzanne@epa.gov>; Spejewski, Andrew <Spejewski.Andrew@epa.gov>; Howard, MarkW <Howard.MarkW@epa.gov>; Tinger, John <Tinger.John@epa.gov>; Colletti, John <colletti.john@epa.gov>; Hamilton, Denise <Hamilton.Denise@epa.gov>; Houlihan, Damien <houlihan.damien@epa.gov>; Rosenberg, Alex <Rosenberg.Alex@epa.gov>; Abrams, Nancy <Abrams.Nancy@epa.gov>; Brennan, Ross <Brennan.Ross@epa.gov>; Cunningham, Caitlin <cunningham.caitlin@epa.gov>; WEISS, MICHAEL <weiss.michael@epa.gov>; Perez, Daniel <Perez.Daniel@epa.gov>; Hayes, Mark <hayes.mark@epa.gov>

**Subject:** Food & Water Watch et al CAFO petition

Per our discussion on the call last week, I said I'd send this around.

<< File: citizens\_cafo\_cwa\_petition.pdf >>

Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939  
[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)



Message

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**From:** Molloy, Jennifer [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D58B88880EC245048A8B17A62EB915FA-MOLLOY, JENNIFER]  
**Sent:** 12/2/2020 7:46:08 PM  
**To:** Zobrist, Marcus [Zobrist.Marcus@epa.gov]  
**CC:** Utting, George [Utting.George@epa.gov]  
**Subject:** RE: cafo petition appendix  
**Attachments:** Appendix A for Petitions to Revise CAFO Regulations short version\_JM.docx

Thanks for the chance to review. Suggestions on the attached. I think George did a great job of framing out the issues raised in the petition. There's obviously a fine line to walk in the last column (comments) depending on the audience. Since the first audience is Anna, there should probably be an AnnaVersion, though I suspect we may also need to have a NextAAVersion as well. At any rate, I will leave it to the 2 of you to decide how to thread the needle on this version.

Jenny Molloy  
U.S. EPA  
Water Permits Division

**Ex. 6 Personal Privacy (PP)**

[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

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**From:** Zobrist, Marcus <Zobrist.Marcus@epa.gov>  
**Sent:** Wednesday, December 2, 2020 12:55 PM  
**To:** Molloy, Jennifer <molloy.jennifer@epa.gov>  
**Subject:** FW: cafo petition appendix

Jenny,

Any comments on this – this will be shared with Anna, although there is no expectation to respond to the petitions this term.

---

**From:** Utting, George  
**Sent:** Tuesday, December 01, 2020 5:50 PM  
**To:** Zobrist, Marcus <Zobrist.Marcus@epa.gov>  
**Subject:** cafo petition appendix

Ok I took a stab and shortened it by 3 pages. This version is abridged (but cleaner in places). Anything more is less. : )

Have a nice evening!

Message

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**From:** Molloy, Jennifer [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D58B88880EC245048A8B17A62EB915FA-MOLLOY, JENNIFER]  
**Sent:** 12/4/2018 2:19:59 PM  
**To:** Zobrist, Marcus [Zobrist.Marcus@epa.gov]  
**Subject:** Mussard - notes from David Rise

Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939  
[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

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**From:** Subramanian, Hema  
**Sent:** Monday, November 26, 2018 2:00 PM  
**To:** Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Utting, George <Utting.George@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Shenk, Kelly <shenk.kelly@epa.gov>; Rathbone, Colleen <Rathbone.Colleen@epa.gov>; Zhang, Qian <Zhang.Qian@epa.gov>; Perreault, Peg <Perreault.Peg@epa.gov>  
**Cc:** Perrin, Rebecca <Perrin.Rebecca@epa.gov>  
**Subject:** RE: Meeting with Bryan Mussard next week

Meant to fwd the below info to full group. Also adding Rebecca Perrin here. I will be unable to join the meeting, FYI.

**From:** Rise, David  
**Sent:** Monday, June 04, 2018 12:19 PM  
**To:** Subramanian, Hema <[Subramanian.Hema@epa.gov](mailto:Subramanian.Hema@epa.gov)>; Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Brennan, Ross <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>; Perrin, Rebecca <[Perrin.Rebecca@epa.gov](mailto:Perrin.Rebecca@epa.gov)>  
**Subject:** Montana Stockgrowers Questions.

Hi All;

I could not get a hold of Bryan Mussard last week, so sent him this email below on Friday afternoon with an added note that I would call him this morning at 0700.

When I called this morning I found that he had been at cow camp with no cell service last week. I should be so lucky. He did read my email but is now doing catch up on meetings and calls but said he will call me when his other things are done.

The email I sent Friday:

Mr. Mussard;

I have been asked to respond to you concerning the issues you raised during a recent meeting with the EPA Administrator. The list of issues I have been given is below, I have inserted responses in red text.

Water

CWA/NPDES/State WQ CAFO Regs:

- Concerns around excess fines and violations for paperwork issues. The Montana Department of Environmental Quality (MDEQ) has been authorized to implement the Clean Water Act (CWA) in Montana except for Indian country. The EPA has not conducted any enforcement actions on CAFOs to my knowledge so these would be MDEQ actions. The MDEQ has a penalty policy they use to determine penalties for CWA violations. You could probably get a copy of that policy from them by asking.
- Request for streamlining paperwork and monitoring burdens where possible under CWA/NPDES CAFO Regs. E.g.,
  - Their forms require repeatedly checking off many boxes for monitoring checklist, could it be a single checkbox for when all monitoring on the list has been completed? I am not sure of this requirement, monitoring discharges of wastewater from the CAFOs or the inspection requirements? I could not find any inspection or water monitoring forms on the MDEQ website. If it is the daily/weekly facility inspection forms that this question references, I would recommend contacting the MDEQ to see if you could work with them to develop more user friendly forms.
  - Any way to simplify/streamline NMP paperwork? (Bryan Mussard would be interested in working with OWM/AADG on specific NMP recommendations.) The field level soil and manure sampling and analysis is needed to ensure manure, litter, wastewater, etc. is applied to fields at agronomic rates and is required by regulation. The annual reporting is required by regulation. The MDEQ does have a NMP form on their website where producers can fill in the blanks to complete the NMP. However, it still requires the field level sampling and analysis.
- Any relief from monitoring possible during the 9 months per year that their CAFO operations are shut down? I would recommend you contact MDEQ to see if there is a possibility that a single note could be made on the form. A possible language example could be: "The facility was empty of animals from [date] to [date]. During that time all watering points were turned off to prevent leaks, overflows, spills and runoff. Facility staff did conduct drive-around inspections of the facility on [insert an interval] and did not see any leaks, overflows, spills or runoff at the facility."
- Confusion over which reg requirements are federal NPDES versus which are the state DEQ requirements. E.g.,
  - NMP requirements for manure that's already been transferred offsite. The EPA requires any manure transferred to another person/business to be accompanied with an analysis of the nutrients in the manure. Manure transferred from the production area to a site covered under the NMP must be applied according to the NMP.
  - All CAFOs need to be permitted regardless of discharge? The MDEQ also permits facilities for possible ground water discharge (infiltration), also the state can make their requirements more stringent than the federal requirements, either by statute or regulation. Per Federal Court decisions, under the CWA, the EPA regulates discharges, not facilities and therefore would not require a permit of a facility that does not discharge, though any unpermitted facility would still be liable under the CWA if they did discharge pollutants to a water of the U.S. without a permit.
- Request for EPA to respond to enviro (Food & Water Watch et. al) petition on strengthening CAFO regs, so that it doesn't unnecessarily end up in a suit for failure to respond. I have been told this is being handled through the EPA Headquarters offices.
- Bryan Mussard would be interested in participating in the AADG as an individual producer, particularly in discussions about NMP/reporting. You are very welcome to participate, I think have producers there would provide some good perspective on how the requirements affect individual operations. I would say contact Scott Yager for additional information on when and where they are held.

David Rise, Wastewater Unit  
 EPA Region 8 (8TMS-MU)  
 10 West 15 Street, Suite 3200  
 Helena, MT 59626  
 (406) 457-5012



**From:** Subramanian, Hema

**Sent:** Monday, April 16, 2018 11:03 AM

**To:** Campbell, Ann <Campbell.Ann@epa.gov>; Wright, Rhonda <Wright.Rhonda@epa.gov>; Branning, Hannah <Branning.Hannah@epa.gov>

**Cc:** Shiffman, Cari <Shiffman.Cari@epa.gov>

**Subject:** FW: Notes from Montana Stockgrowers Meeting

Ann, Rhonda, and Hannah,

The Administrator (along with Stephen Gordon – OPEEE, Daisy Letendre – OP Smart Sectors, and I) met with the Montana Stockgrowers Association last Thursday. See notes below, there are some followups particularly for OW (OWM). I can help with any questions, and please let us know if any followups occur.

Many thanks,

---Hema.

-----  
Hema Subramanian  
Acting Special Assistant for Agriculture Policy  
Office of the Administrator  
U.S. Environmental Protection Agency  
Washington, DC  
office: (202) 564-5041

#### **Montana Stockgrowers Association – 4/12 Meeting**

Main POCs:

Bryan Mussard, President

Jim Steinbeisser, 2<sup>nd</sup> VP,

(Group was accompanied by Scott Yager, NCBA)

### **Ex. 6 Personal Privacy (PP)**

#### **Water**

#### **CWA/NPDES/State WQ CAFO Regs:**

- Concerns around excess fines and violations for paperwork issues.
- Request for streamlining paperwork and monitoring burdens where possible under CWA/NPDES CAFO Regs. E.g.,
  - Their forms require repeatedly checking off many boxes for monitoring checklist, could it be a single checkbox for when all monitoring on the list has been completed?
  - Any way to simplify/streamline NMP paperwork? (Bryan Mussard would be interested in working with OWM/AADG on specific NMP recommendations.)
- Any relief from monitoring possible during the 9 months per year that their CAFO operations are shut down?
- Confusion over which reg requirements are federal NPDES versus which are the state DEQ requirements. E.g.,
  - NMP requirements for manure that's already been transferred offsite.
  - All CAFOs need to be permitted regardless of discharge?
- Request for EPA to respond to enviro (Food & Water Watch et. al) petition on strengthening CAFO regs, so that it doesn't unnecessarily end up in a suit for failure to respond.

**319:** Want support for the grant program—important and valued in MT.

**WOTUS:** Praised recent actions.

## Air

**Forest fires** are a significant issue, but can't do controlled burns to manage them. Forest Service referred them to EPA, pointing to air regulations as potentially being the reason. Requested flexibility for short term/emergency allowances of controlled burns.

## OECA

**NEI:** Request to consider dropping CAFOs when NEIs are up for renewal.

### Follow ups:

- Sending notes to OW, OAR, OECA.
- OW/OWM:

# Ex. 5 Deliberative Process (DP)

**From:** Zobrist, Marcus

**Sent:** Monday, November 26, 2018 1:32 PM

**To:** Utting, George <Utting.George@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Shenk, Kelly <shenk.kelly@epa.gov>; Rathbone, Colleen <Rathbone.Colleen@epa.gov>; Zhang, Qian <Zhang.Qian@epa.gov>

**Subject:** Meeting with Bryan Mussard next week

Next Tuesday at 10 AM Bryan Mussard of the Montana Stockgrowers Association is meeting with Andrew and others to discuss "CAFO Permit Regulations." While that could be just about anything, this is what he mentioned at the most recent AADG meeting (from Joseph's unrefined notes):

Montana (Bryan Mussard)

- State/fed discrepancies/disconnect (e.g., State says "non-discharging" feedlot [in a desert) needs permit because Feds. say so)
- There should be different permit types for other facilities with different fact patterns.
- Is this a State or Fed issue?

If anyone has additional ideas about what he might want to talk about – please respond.

A whopping 14 people (not counting schedulers) are invited. I will suggest that Colleen, Qian and George, take the lead in answering questions regarding the CAFO regs. Not sure why OWOW was invited. Is there a need to invite OGC/ORC? I'm thinking not. I will also suggest that many of the OWM managers do not need to attend. I will attend at least part of it – but I have two conflicts that morning.

This meeting also conflicts with a recently scheduled OW "all-hands" meeting.

Marcus Zobrist |  
Chief, Industrial Branch

U.S. Environmental Protection Agency  
Office of Wastewater Management \Water Permits Division  
Office: (202) 564-8311 Mobile: Ex. 6 Personal Privacy (PP)  
Zobrist.Marcus@epa.gov

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Message

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**From:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Sent:** 5/3/2017 10:37:18 PM  
**To:** Magruder, DeMara [Magruder.Demara@epa.gov]  
**CC:** Shenk, Kelly [shenk.kelly@epa.gov]  
**Subject:** The CAFO Petition mtg on 17 May

DeMara

Please add a call in number. Please invite Kelly Shenk

Thanks  
Deborah

Sent from my iPhone

Message

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**From:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Sent:** 5/3/2017 10:34:29 PM  
**To:** Shenk, Kelly [shenk.kelly@epa.gov]  
**Subject:** CAFO CWA Petition

Hope you can attend. You can call in if you want.

**CAFO CWA Petition**

Scheduled: Wednesday, May 17, 2017 from 11:00 AM to 12:00 PM

Location: 1201 Constitution Avenue, N.W., Room 7217, William Jefferson Clinton Building

Invitees: Molloy, Jennifer, Paul Hinson, Brennan, Ross, Sarah Geers, cruisermomii, Utting, George, Michele Merkel, Bonnelycke, Nina, Scott Edwards, DCRoomEast7217/DC-ICC-OWM, Tarah Heinzen, Terry, Jennifer, Robert Martin

Sent from my iPhone

Message

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**From:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Sent:** 4/4/2017 11:41:20 AM  
**To:** Molloy, Jennifer [molloy.jennifer@epa.gov]  
**Subject:** Re: did this letter go out?

Thanks for the update Jenny

Sent from my iPhone

On Apr 4, 2017, at 7:14 AM, Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)> wrote:

Just finally got confirmation this a.m. from the IO about the response to the FWW petition. Mike signed on 4/2 (working on Sunday!) and the letter is going out today. SO – the TP for tomorrow is accurate, but realize that FWW will just be getting the letter. So, if you get the question about whether they've scheduled a meeting yet you'll have to allow for the fact that they haven't had time.

Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939  
[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

---

**From:** Ruf, Christine  
**Sent:** Tuesday, April 04, 2017 7:03 AM  
**To:** Jones-Coleman, Diane <[Jones-Coleman.Diane@epa.gov](mailto:Jones-Coleman.Diane@epa.gov)>  
**Cc:** Fields, Wanda <[Fields.Wanda@epa.gov](mailto:Fields.Wanda@epa.gov)>; Lousberg, Macara <[Lousberg.Macara@epa.gov](mailto:Lousberg.Macara@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Farrell, Ericka <[Farrell.Ericka@epa.gov](mailto:Farrell.Ericka@epa.gov)>  
**Subject:** Re: did this letter go out?

Thanks Diane!

On Apr 4, 2017, at 6:57 AM, Jones-Coleman, Diane <[Jones-Coleman.Diane@epa.gov](mailto:Jones-Coleman.Diane@epa.gov)> wrote:

Good morning Christine,

Mike Shapiro signed 4-2-17.

Since I was out yesterday, I will dispatch this AM.

Let me know if you need anything further.

Thanks.

*Diane*

Diane C. Coleman  
OW Correspondence Team Leader  
(202) 564-0379  
(202) 564-0500 FAX

E-mail: [Jones-Coleman.Diane@epa.gov](mailto:Jones-Coleman.Diane@epa.gov)

---

**From:** Ruf, Christine  
**Sent:** Monday, April 03, 2017 10:19 AM  
**To:** Jones-Coleman, Diane <[Jones-Coleman.Diane@epa.gov](mailto:Jones-Coleman.Diane@epa.gov)>; Fields, Wanda <[Fields.Wanda@epa.gov](mailto:Fields.Wanda@epa.gov)>  
**Cc:** Lousberg, Macara <[Lousberg.Macara@epa.gov](mailto:Lousberg.Macara@epa.gov)>  
**Subject:** did this letter go out?

Hi Diane and Wanda, do you have the status of this letter (AX-17-000-5937) per the email below? Thanks. Christine

---

**From:** Molloy, Jennifer  
**Sent:** Monday, April 03, 2017 10:14 AM  
**To:** Campbell, Ann <[Campbell.Ann@epa.gov](mailto:Campbell.Ann@epa.gov)>  
**Cc:** Abrams, Nancy <[Abrams.Nancy@epa.gov](mailto:Abrams.Nancy@epa.gov)>; Lousberg, Macara <[Lousberg.Macara@epa.gov](mailto:Lousberg.Macara@epa.gov)>  
**Subject:** response letter to Food & Water Watch petition on CAFO regs

Ann or Macara:

Could you please confirm if the response letter (AX-17-000-5937), which was prepared for Mike's signature, has gone out?

There is an Animal Ag Discussion Group (AADG) meeting on Wednesday, and we know we'll get questions about the petition, so we want to have an up-to-date talking point on it.

Thanks, Jenny

Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939  
[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

---

**From:** Campbell, Ann  
**Sent:** Friday, March 24, 2017 11:07 AM  
**To:** Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>  
**Cc:** Abrams, Nancy <[Abrams.Nancy@epa.gov](mailto:Abrams.Nancy@epa.gov)>  
**Subject:** RE: contact for FWW petition on CAFOs response letter

Thanks Jenny. I just spoke with Deborah. Please identify her as the point person. Thank you.

---

**From:** Molloy, Jennifer  
**Sent:** Friday, March 24, 2017 7:24 AM  
**To:** Campbell, Ann <[Campbell.Ann@epa.gov](mailto:Campbell.Ann@epa.gov)>  
**Subject:** contact for FWW petition on CAFOs response letter

Ann:

I also left you a vm. Sorry for the redundancy, just not sure of the fastest way to get in touch with you.

You talked briefly with Nancy Abrams yesterday about a contact name to put in the attached letter. If you could let me know who that would be that would be greatly appreciated.

Thanks, Jenny

Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939  
[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)



Message

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**From:** Magruder, DeMara [Magruder.Demara@epa.gov]  
**Sent:** 4/20/2017 9:06:59 PM  
**To:** Nagle, Deborah [Nagle.Deborah@epa.gov]; Tarah Heinzen [theinzen@fwwatch.org]  
**Subject:** RE: Meeting re. CAFO CWA petition

Hi, Tarah. My name is DeMara Magruder. I am Deborah's assistant.

Here are some available times for Deborah during the week of May 15<sup>th</sup>:

5/15    2:00 – 3:00  
          4:00 – 5:00  
5/16    9:00 – 10:00  
          1:00 – 2:00  
          3:00 – 5:00  
5/17    10:00 – 11:00  
          1:00 – 3:00  
          4:00 – 5:00  
5/18    9:00 – 10:00  
          11:00 – 12:00  
5/19    All day

Thank you.

DeMara

---

**From:** Nagle, Deborah  
**Sent:** Thursday, April 20, 2017 2:58 PM  
**To:** Tarah Heinzen <theinzen@fwwatch.org>  
**Cc:** Magruder, DeMara <Magruder.Demara@epa.gov>  
**Subject:** RE: Meeting re. CAFO CWA petition

Hi Tarah – look for an email from DeMara McGruder my administrative assistant. DeMara will make sure we get time scheduled.

-Deborah

---

**From:** Tarah Heinzen [mailto:[theinzen@fwwatch.org](mailto:theinzen@fwwatch.org)]  
**Sent:** Thursday, April 20, 2017 10:48 AM  
**To:** Nagle, Deborah <[Nagle.Deborah@epa.gov](mailto:Nagle.Deborah@epa.gov)>  
**Subject:** Re: Meeting re. CAFO CWA petition

Hi Deborah,

Thanks for these times, we can probably make one of them work but have a couple conflicts and quite a few petitioners who would like to participate. Could you let me know your availability the following two weeks (after noon EST is preferable to accommodate those in other time zones) in case there's a better time for the group?

Best,  
Tarah

---

**From:** Nagle, Deborah <[Nagle.Deborah@epa.gov](mailto:Nagle.Deborah@epa.gov)>  
**Sent:** Tuesday, April 18, 2017 6:07:46 PM  
**To:** Tarah Heinzen  
**Subject:** RE: Meeting re. CAFO CWA petition

Tarah,

I am out of the office most of the first half of May, but I am in the office 10 and 11 May. I am free the following times – all times are Eastern time zone

10 MAY

? 2:00 – 3:00 pm  
? 4:00 - 5:00 pm

11 May

? 9:00 – 10:00 am  
? 2:00 -4:00 pm

Please let me know if any of these dates and times work for you. I look forward to talking with you and others about the CAFO CWA petition.

Thanks,  
Deborah

Deborah G. Nagle, Director  
Water Permits Division  
MC 4203M  
1200 Pennsylvania Ave, NW  
Washington, DC 20460  
Tel: (202) 564-1185  
FAX: (202) 564-6392

---

**From:** Tarah Heinzen [<mailto:theinzen@fwwatch.org>]  
**Sent:** Tuesday, April 18, 2017 5:16 PM  
**To:** Nagle, Deborah <[Nagle.Deborah@epa.gov](mailto:Nagle.Deborah@epa.gov)>  
**Subject:** Meeting re. CAFO CWA petition

Dear Ms. Nagle,

Thank you for the letter acknowledging the CAFO CWA petition recently filed by Food & Water Watch and numerous other organizations. We would welcome the opportunity to meet, and will likely have some co-petitioners interested in participating by phone. Could you let me know some dates and times that might work for you? The first half of May looks like it would work well for us.

Thank you,  
Tarah

Tarah Heinzen  
Staff Attorney

Food & Water Justice Program  
Food & Water Watch  
1616 P St. NW, Suite 300  
Washington, DC 20036  
[theinzen@fwwatch.org](mailto:theinzen@fwwatch.org)  
(202) 683-2457 (o)

Ex. 6 Personal Privacy (PP)

PRIVILEGE AND CONFIDENTIALITY NOTICE

This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law as attorney client and work-product confidential or otherwise confidential communications. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication or other use of a transmission received in error is strictly prohibited. If you have received this transmission in error, immediately notify us at the above telephone number.

Message

---

**From:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Sent:** 3/29/2017 10:29:08 PM  
**To:** Dwyer, Stacey [Dwyer.Stacey@epa.gov]  
**Subject:** Re: CAFO Citizen petition

Yes. We have the petition. HQ is on point to respond. To date we only have sent (or is in the process) a letter acknowledging receipt of the petition

Thanks for checking in on this.

Deborah

Sent from my iPhone

> On Mar 29, 2017, at 5:18 PM, Dwyer, Stacey <Dwyer.Stacey@epa.gov> wrote:  
>  
> Have you seen this?  
>  
> Sent from my iPhone  
>  
> Begin forwarded message:  
>  
> From: "Dwyer, Stacey" <Dwyer.Stacey@epa.govmailto:Dwyer.Stacey@epa.gov>  
> To: "Honker, William" <honker.william@epa.govmailto:honker.william@epa.gov>  
> Cc: "Garcia, David" <Garcia.David@epa.govmailto:Garcia.David@epa.gov>, "Payne, James" <payne.james@epa.govmailto:payne.james@epa.gov>, "Seager, Cheryl" <Seager.Cheryl@epa.govmailto:Seager.Cheryl@epa.gov>, "Gilrein, Stephen" <gilrein.stephen@epa.govmailto:gilrein.stephen@epa.gov>  
> Subject: Fwd: CAFO Citizen petition  
>  
> FYI  
>  
> Sent from my iPhone  
>  
> Begin forwarded message:  
>  
> From: "Rush, Randall" <Rush.Randall@epa.govmailto:Rush.Randall@epa.gov>  
> To: "Herrera, Esteban" <Herrera.Esteban@epa.govmailto:Herrera.Esteban@epa.gov>, "Saunders, Jerry" <Saunders.Jerry@epa.govmailto:Saunders.Jerry@epa.gov>, "Restivo, Angela" <Restivo.Angela@epa.govmailto:Restivo.Angela@epa.gov>, "Cooper, WilliamF" <Cooper.WilliamF@epa.govmailto:Cooper.WilliamF@epa.gov>, "Hamilton, Denise" <Hamilton.Denise@epa.govmailto:Hamilton.Denise@epa.gov>, "Dwyer, Stacey" <Dwyer.Stacey@epa.govmailto:Dwyer.Stacey@epa.gov>  
> Subject: CAFO Citizen petition  
>  
> Did you all see this yet?  
>  
> Randy Rush  
> Policy Advisor - Agriculture  
> U.S. EPA - Region 6  
> 1445 Ross Avenue (6WQ)  
> Dallas, TX 75202  
>  
> 214-665-7107  
> rush.randall@epa.govmailto:rush.randall@epa.gov  
>  
> <citizens\_cafo\_cwa\_petition.pdf>

Message

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**From:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Sent:** 3/9/2017 2:22:05 PM  
**To:** Abrams, Nancy [Abrams.Nancy@epa.gov]  
**Subject:** Re: Food & Water Watch et al petition

Thanks. I did but only by chance

Sent from my iPhone

> On Mar 9, 2017, at 7:04 AM, Abrams, Nancy <Abrams.Nancy@epa.gov> wrote:

>

>

> You may already know about this.

>

>

> 

---

From: Molloy, Jennifer

> Sent: Wednesday, March 8, 2017 4:52 PM

> To: Abrams, Nancy; Bonnelycke, Nina; Jones, Kristin; Subramanian, Hema; Utting, George; Ziobro, Joseph

> Subject: Food & Water Watch et al petition

>

> I haven' t read it carefully, but I scanned it. It' s interesting and also frustrating.

>

> Jenny Molloy

> U.S. EPA

> Water Permits Division

> 202.564.1939

> molloy.jennifer@epa.gov

>

> <citizens\_cafo\_cwa\_petition.pdf>

Message

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**From:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Sent:** 3/8/2017 9:44:02 PM  
**To:** Utting, George [Utting.George@epa.gov]  
**Subject:** Re: MEDIA INQUIRY Politic RE: CFO's & Pollution discharges into navigable waters DL 4 Pm

Yep we would have to have gotten the petition first

Thanks George

Sent from my iPhone

On Mar 8, 2017, at 4:42 PM, Utting, George <Utting.George@epa.gov> wrote:

That sounds right to me. Not sure why it would even come to us. It would seem that the press folks could handle that sort of response.

By the way, I have not seen this petition.

George Utting  
Water Permits Division (MC-4203M)  
U.S. EPA, 1200 Pennsylvania Avenue, NW,  
Washington,DC 20460-0001  
(202) 564-0744 / Fax (202) 564-6384

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**From:** Nagle, Deborah  
**Sent:** Wednesday, March 08, 2017 4:41 PM  
**To:** Utting, George <Utting.George@epa.gov>  
**Subject:** Re: MEDIA INQUIRY Politic RE: CFO's & Pollution discharges into navigable waters DL 4 Pm

George

If this is in reference to a petition, we normally would acknowledge the petition and say we are carefully evaluating the petition. We would not opine on what we thought about it - that would be premature.

Sent from my iPhone

On Mar 8, 2017, at 4:25 PM, Utting, George <Utting.George@epa.gov> wrote:

FYI

George Utting  
Water Permits Division (MC-4203M)  
U.S. EPA, 1200 Pennsylvania Avenue, NW,  
Washington,DC 20460-0001  
(202) 564-0744 / Fax (202) 564-6384

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**From:** Abrams, Nancy  
**Sent:** Wednesday, March 08, 2017 4:01 PM  
**To:** Farber, Kit <Farber.Kit@epa.gov>  
**Cc:** Utting, George <Utting.George@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>

**Subject:** RE: MEDIA INQUIRY Politic RE: CFO's & Pollution discharges into navigable waters DL 4 Pm

I have not seen anything from Mary on this. I am not aware that we have been asked to work on it. Jenny? George?

---

**From:** Farber, Kit

**Sent:** Wednesday, March 08, 2017 3:50 PM

**To:** Abrams, Nancy <[Abrams.Nancy@epa.gov](mailto:Abrams.Nancy@epa.gov)>

**Cc:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>

**Subject:** FW: MEDIA INQUIRY Politic RE: CFO's & Pollution discharges into navigable waters DL 4 Pm

Nancy --

Would you know if anyone is working on this media inquiry?

It's due today at 4pm. It may have come from Mary yesterday or earlier.

Thanks --

Kit

---

**From:** Fuld, John

**Sent:** Wednesday, March 08, 2017 2:34 PM

**To:** Schollhamer, Mary <[Schollhamer.Mary@epa.gov](mailto:Schollhamer.Mary@epa.gov)>; Farber, Kit <[Farber.Kit@epa.gov](mailto:Farber.Kit@epa.gov)>

**Subject:** MEDIA INQUIRY Politic RE: CFO's & Pollution discharges into navigable waters DL 4 Pm

Note DL : 4 pm

<image003.png> **Office of Water**  
**Media Inquiry**

**Travis Loop**  
Communications Director-Water  
[loop.travis@epa.gov](mailto:loop.travis@epa.gov)

**John W. Fuld, Ph.D.**  
Media Relations Mgr.-Water  
[fuld.john@epa.gov](mailto:fuld.john@epa.gov)

**DATE: March 8, 2017**

**OUTLET: Politico**

**REPORTER: Catherine Boudreau**

**TOPIC: RE: Pollution discharges into navigable waters**

**DEADLINE: 4 pm**

**OW PROGRAM OFFICE: OWM**

**PERTINENT INFORMATION:**

Reporter covers food and agriculture policy at Politico, and is hoping we can respond to some of the issues raised by a petition groups like Food and Water Watch, Des Moines Water Works and the Johns Hopkins Center for a Livable Future filed today. It can be found here:

[https://www.foodandwaterwatch.org/sites/default/files/citizens\\_cafos\\_cwa\\_petition.pdf](https://www.foodandwaterwatch.org/sites/default/files/citizens_cafos_cwa_petition.pdf)

**QUESTION:**

She's looking for comments on the following:

- 1) <!--[if !supportLists]--><!--[endif]-->The petition states that the EPA isn't fulfilling its obligation under the Clean Water Act to "restore and maintain the chemical, physical and biological integrity of the Nation's waters" by eliminating pollution discharges into navigable waters when it comes to concentrating animal feeding operations, or CAFOs. The groups are requesting that the agency overhaul its CAFO permitting system so it requires stricter standards and enforcement of those standards.
- 2) <!--[if !supportLists]--><!--[endif]-->The petition states that current regulations: "fail to require water monitoring, do not prohibit practices known to harm water quality, generally ignore numerous pollutants of concern, place critical decisions about waste management in the hands of state agencies, and exempt most chronic CAFO discharges from permit requirements through an unreasonably broad reading of the agricultural stormwater exemption."
  - a. <!--[if !supportLists]--><!--[endif]-->Can you respond to this statement?
  - b. <!--[if !supportLists]--><!--[endif]-->Also, can you provide numbers on how many CAFOs there are in the U.S., how many have obtained permits under CWA, and how many have been exempted under this stormwater exemption?
- 3) <!--[if !supportLists]--><!--[endif]-->The petitioners are requesting that EPA revise the Effluent Limitation Guidelines so they establish pollution control levels for additional CAFO pollutants of concern – such as nitrogen, phosphorus, antimicrobials and hormones.

\*\*\*\*\*

\*\*\*\*\*

**For Context – Internal Only** *{to be included in addendum}*

**BACKGROUNDER:** *(background on the issue. What is it? The objective? Is it bipartisan? Is it publicly avail? Are we making news*



*with discussing this for the first time? Have we discussed it publicly before? Where? Listserv? Meeting? Webinar? Press Release? Speech?)*

**INFORMATION PUBLICLY AVAILABLE:** *(LIST SOURCE WITH EACH ANSWER)*

\*\*\*\*\*

\*\*\*\*\*

**PROGRAM MESSAGE AND ANSWERS:**

**John W. Fuld, Ph.D.**

Media Relations Manager-Water  
Environmental Protection Agency

1200 Constitution Ave

Washington DC 20460

Office: 202-564-8847

Ex. 6 Personal Privacy (PP)

Fuld.john@epa.gov

Message

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**From:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Sent:** 3/8/2017 10:37:01 PM  
**To:** Utting, George [Utting.George@epa.gov]  
**Subject:** Fwd: Food & Water Watch et al petition  
**Attachments:** citizens\_cafo\_cwa\_petition.pdf; ATT00001.htm

Jenny has the petition. See below

Sent from my iPhone

Begin forwarded message:

**From:** "Levine, MaryEllen" <[levine.maryellen@epa.gov](mailto:levine.maryellen@epa.gov)>  
**To:** "Wood, Robert" <[Wood.Robert@epa.gov](mailto:Wood.Robert@epa.gov)>  
**Cc:** "Nagle, Deborah" <[Nagle.Deborah@epa.gov](mailto:Nagle.Deborah@epa.gov)>, "Witt, Richard" <[Witt.Richard@epa.gov](mailto:Witt.Richard@epa.gov)>, "Shriner, Paul" <[Shriner.Paul@epa.gov](mailto:Shriner.Paul@epa.gov)>  
**Subject:** FW: Food & Water Watch et al petition

OWM has this but it in part asks us to revise the CAFO ELGs

- Mary Ellen

Mary Ellen Levine  
Assistant General Counsel  
Water Law Office, Office of General Counsel  
7510 C WJC North  
(202) 564-5487

From: Kupchan, Simma  
Sent: Wednesday, March 08, 2017 5:06 PM  
To: Levine, MaryEllen <[levine.maryellen@epa.gov](mailto:levine.maryellen@epa.gov)>; Neugeboren, Steven <[Neugeboren.Steven@epa.gov](mailto:Neugeboren.Steven@epa.gov)>  
Subject: FW: Food & Water Watch et al petition

FYI – petition to revise the CAFO regulations.

Simma Kupchan  
Water Law Office  
US EPA Office of General Counsel  
William Jefferson Clinton Building North Room 7426Q  
(p) 202-564-3105

From: Bonnelycke, Nina  
Sent: Wednesday, March 08, 2017 5:02 PM  
To: Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)<<mailto:Kupchan.Simma@epa.gov>>>  
Cc: Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)<<mailto:molloy.jennifer@epa.gov>>>; Abrams, Nancy <[Abrams.Nancy@epa.gov](mailto:Abrams.Nancy@epa.gov)<<mailto:Abrams.Nancy@epa.gov>>>  
Subject: Fw: Food & Water Watch et al petition

Just in case you haven't seen this yet.

---

Nina J. Bonnelycke

Rural Branch, Water Permits Division

Office of Wastewater Management

U.S. Environmental Protection Agency

1200 Pennsylvania Ave., N.W., 4203M

Washington, D.C. 20460

(202)564-0764

---

From: Molloy, Jennifer

Sent: Wednesday, March 8, 2017 4:52 PM

To: Abrams, Nancy; Bonnelycke, Nina; Jones, Kristin; Subramanian, Hema; Utting, George; Ziobro, Joseph

Subject: Food & Water Watch et al petition

I haven't read it carefully, but I scanned it. It's interesting and also frustrating.

Jenny Molloy

U.S. EPA

Water Permits Division

202.564.1939

[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)<<mailto:molloy.jennifer@epa.gov>>

Message

---

**From:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Sent:** 5/17/2017 4:07:39 PM  
**To:** Shenk, Kelly [shenk.kelly@epa.gov]  
**Subject:** Fwd: Food & Water Watch et al petition  
**Attachments:** citizens\_cafo\_cwa\_petition.pdf; ATT00001.htm

Here you go

Sent from my iPhone

Begin forwarded message:

**From:** "Nagle, Deborah" <Nagle.Deborah@epa.gov>  
**To:** "Zipf, Lynn" <Zipf.Lynn@epa.gov>  
**Subject:** FW: Food & Water Watch et al petition

Lynn

Here is a copy of the petition that we received from Food and Water Watch to revise the CAFO Regs. This is the topic of tomorrow's meeting.

-Deborah

From: Abrams, Nancy  
Sent: Thursday, March 09, 2017 7:05 AM  
To: Nagle, Deborah <Nagle.Deborah@epa.gov>  
Subject: Fw: Food & Water Watch et al petition

You may already know about this.

---

From: Molloy, Jennifer  
Sent: Wednesday, March 8, 2017 4:52 PM  
To: Abrams, Nancy; Bonnelycke, Nina; Jones, Kristin; Subramanian, Hema; Utting, George; Ziobro, Joseph  
Subject: Food & Water Watch et al petition

I haven't read it carefully, but I scanned it. It's interesting and also frustrating.

Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939  
[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov) <<mailto:molloy.jennifer@epa.gov>>

Message

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**From:** Nagle, Deborah [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33888A2BBE8F48AEB4AD9CC54259FB4E-DNAGLE]  
**Sent:** 11/2/2020 7:50:31 PM  
**To:** Wildeman, Anna [wildeman.anna@epa.gov]  
**CC:** Bertrand, Charlotte [Bertrand.Charlotte@epa.gov]  
**Subject:** RE: ELGs

Yes, the request for relief to update the ELG is in OST's lane. FYI - the ELG is a zero discharge standard with discharges allowed above a specific design storm event. WQS would apply to any wet weather discharges allowed.

-Deborah

---

**From:** Wildeman, Anna <wildeman.anna@epa.gov>  
**Sent:** Monday, November 2, 2020 1:48 PM  
**To:** Nagle, Deborah <Nagle.Deborah@epa.gov>  
**Cc:** Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>  
**Subject:** RE: ELGs

Ok, thanks. Will need to hear more about these meetings with petitioners.

**Ex. 5 Deliberative Process (DP)**

**Ex. 5 Deliberative Process (DP)**

One of the petitioner's request for relief was to update the ELG. Wouldn't that be in OST's lane, not in OWM's lane?

---

**From:** Nagle, Deborah <Nagle.Deborah@epa.gov>  
**Sent:** Monday, November 2, 2020 1:38 PM  
**To:** Wildeman, Anna <wildeman.anna@epa.gov>  
**Cc:** Bertrand, Charlotte <Bertrand.Charlotte@epa.gov>  
**Subject:** RE: ELGs

Anna,

Yes, I am familiar with this petition because WPD took the lead (when I was the Division Director) on coordinating with the petitioners. I remember having several meetings with the petitioners. Soon thereafter I moved to OST. I recollect that although the petition touched on the CAFO ELG, it focused more on the NPDES CAFO Regs.

Deborah

---

Deborah G. Nagle, Director  
Office of Science and Technology  
1200 Pennsylvania Ave, NW  
Washington, DC 20460  
Tel: (202) 564-1185

---

**From:** Wildeman, Anna <[wildeman.anna@epa.gov](mailto:wildeman.anna@epa.gov)>  
**Sent:** Monday, November 2, 2020 9:00 AM  
**To:** Nagle, Deborah <[Nagle.Deborah@epa.gov](mailto:Nagle.Deborah@epa.gov)>  
**Cc:** Bertrand, Charlotte <[Bertrand.Charlotte@epa.gov](mailto:Bertrand.Charlotte@epa.gov)>  
**Subject:** ELGs

Deborah, are you aware of this petition that was filed in 2017 requesting that EPA update its ELGs for large CAFOs?

**Anna Wildeman**  
Principal Deputy Assistant Administrator  
Office of Water  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
202-564-5700  
[Wildeman.Anna@epa.gov](mailto:Wildeman.Anna@epa.gov)

Message

---

**From:** Nagle, Deborah [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33888A2BBE8F48AEB4AD9CC54259FB4E-DNAGLE]  
**Sent:** 5/16/2017 10:50:57 PM  
**To:** Zipf, Lynn [Zipf.Lynn@epa.gov]  
**Subject:** RE: CAFO CWA Petition

Thanks.

We are just listening to their reasons for sending us a petition to revise the CAFO Regs.

-Deborah

---

**From:** Zipf, Lynn  
**Sent:** Tuesday, May 16, 2017 3:27 PM  
**To:** Nagle, Deborah <Nagle.Deborah@epa.gov>  
**Cc:** Goodwin, Janet <Goodwin.Janet@epa.gov>; Shriner, Paul <Shriner.Paul@epa.gov>; Wood, Robert <Wood.Robert@epa.gov>  
**Subject:** RE: CAFO CWA Petition

Deborah – Paul is out tomorrow and will not be able to participate. I can attend and listen. If you have any more information, please send it along. Thanks.

---

Lynn Zipf, Acting Branch Chief  
Technology and Analytical Support Branch  
Engineering and Analysis Division  
Office of Science and Technology  
Office of Water

EPA West Room 6231Z  
(202) 564-1509

-----Original Appointment-----

**From:** Nagle, Deborah  
**Sent:** Tuesday, May 16, 2017 9:09 AM  
**To:** Nagle, Deborah; Brennan, Ross; Molloy, Jennifer; Utting, George; Bonnelycke, Nina; Tarah Heinzen; Shenk, Kelly; Wood, Robert; Goodwin, Janet; Kupchan, Simma; Levine, MaryEllen  
**Cc:** Sarah Geers; Michele Merkel; Scott Edwards; Terry, Jennifer; Robert Martin; Paul Hinson; Adam Kron; Zipf, Lynn  
**Subject:** FW: CAFO CWA Petition  
**When:** Wednesday, May 17, 2017 2:00 PM-3:00 PM (UTC-05:00) Eastern Time (US & Canada).  
**Where:** 1201 Constitution Avenue, N.W., Room 7217, William Jefferson Clinton Building; Dial in: Ex. 6 Personal Privacy (PP)  
**Passcode:** Ex. 6 Personal Privacy (PP)

I have no idea what this is about. Paul would be the lead for this.

-----Original Appointment-----

**From:** Nagle, Deborah  
**Sent:** Monday, May 15, 2017 10:55 AM  
**To:** Nagle, Deborah; Brennan, Ross; Molloy, Jennifer; Utting, George; Bonnelycke, Nina; Tarah Heinzen; Shenk, Kelly; Wood, Robert; Goodwin, Janet; Kupchan, Simma; Levine, MaryEllen  
**Cc:** Sarah Geers; Michele Merkel; Scott Edwards; Terry, Jennifer; Robert Martin; Paul Hinson; Adam Kron  
**Subject:** CAFO CWA Petition

**When:** Wednesday, May 17, 2017 2:00 PM-3:00 PM (UTC-05:00) Eastern Time (US & Canada).

**Where:** 1201 Constitution Avenue, N.W., Room 7217, William Jefferson Clinton Building; Dial in: Ex. 6 Personal Privacy (PP)

Passcode: Ex. 6 Personal Privacy (PP)

Our office is located at 1201 Constitution Avenue, N.W., Washington, DC (Federal Triangle Metro stop). The entrance is on Constitution Avenue near the corner of 12<sup>th</sup> & Constitution Avenue, N.W. Once you arrive at the building, please present your identification to the Security Guard (please see attachment for proper identification). After completing the security procedures, please ask the guard to call 202-564-8478 (DeMara Magruder) so that someone can come down to escort you to the conference room.

Information for attendees who will be calling into the meeting:

Dial In: Ex. 6 Personal Privacy (PP)

Passcode: Ex. 6 Personal Privacy (PP)

Thank you.



Message

---

**From:** Nagle, Deborah [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33888A2BBE8F48AEB4AD9CC54259FB4E-DNAGLE]  
**Sent:** 11/2/2020 6:46:31 PM  
**To:** Wood, Robert [Wood.Robert@epa.gov]  
**Subject:** RE: ELGs

Looks like my memory is pretty good. I copied you on my response to Anna. I also forwarded the email to Andrew as a heads up.

FYI – there are 6 asks and only one is ELG related.

-Deborah

---

**From:** Wood, Robert <Wood.Robert@epa.gov>  
**Sent:** Monday, November 2, 2020 1:33 PM  
**To:** Nagle, Deborah <Nagle.Deborah@epa.gov>  
**Subject:** FW: ELGs

Here's what MEL sent. Looks like asks and responses discussed at the March 8, 2017 meeting.

---

*Robert Wood, Director  
Engineering and Analysis Division  
U.S. EPA Office of Water  
202-566-1822*

---

**From:** Levine, MaryEllen <levine.maryellen@epa.gov>  
**Sent:** Monday, November 02, 2020 1:05 PM  
**To:** Wood, Robert <Wood.Robert@epa.gov>  
**Cc:** Kloss, Christopher <Kloss.Christopher@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Subject:** RE: ELGs

Here's what I found – very drafty

- *Mary Ellen*

Mary Ellen Levine  
Assistant General Counsel  
Water Law Office, Office of General Counsel  
7510 C WJC North  
(202) 564-1345

---

**From:** Wood, Robert <Wood.Robert@epa.gov>  
**Sent:** Monday, November 02, 2020 1:03 PM  
**To:** Levine, MaryEllen <levine.maryellen@epa.gov>  
**Cc:** Kloss, Christopher <Kloss.Christopher@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Subject:** Re: ELGs

Hi everybody,

I would like to pull together a very brief status report on the petition. Deborah recalls having some meetings with petitioners, but not sure where we left it. Simma, do you have any record? Thanks,

Rob

---

*Robert Wood, Director  
Engineering and Analysis Division  
U.S. EPA Office of Water  
202-566-1822*

On Nov 2, 2020, at 9:41 AM, Levine, MaryEllen <[levine.maryellen@epa.gov](mailto:levine.maryellen@epa.gov)> wrote:

## Ex. 5 Deliberative Process (DP)

- *Mary Ellen*

Mary Ellen Levine  
Assistant General Counsel  
Water Law Office, Office of General Counsel  
7510 C WJC North  
(202) 564-1345

---

**From:** Wood, Robert <[Wood.Robert@epa.gov](mailto:Wood.Robert@epa.gov)>  
**Sent:** Monday, November 02, 2020 9:28 AM  
**To:** Levine, MaryEllen <[levine.maryellen@epa.gov](mailto:levine.maryellen@epa.gov)>  
**Subject:** FW: ELGs

Hi Mary Ellen,

Could you give me a call or alternatively an email reply with any information on the status of this? Thanks.

---

*Robert Wood, Director  
Engineering and Analysis Division  
U.S. EPA Office of Water  
202-566-1822*

---

**From:** Nagle, Deborah <[Nagle.Deborah@epa.gov](mailto:Nagle.Deborah@epa.gov)>  
**Sent:** Monday, November 02, 2020 9:21 AM

**To:** Wood, Robert <[Wood.Robert@epa.gov](mailto:Wood.Robert@epa.gov)>

**Subject:** FW: ELGs

You know about this?

---

**From:** Wildeman, Anna <[wildeman.anna@epa.gov](mailto:wildeman.anna@epa.gov)>

**Sent:** Monday, November 2, 2020 9:00 AM

**To:** Nagle, Deborah <[Nagle.Deborah@epa.gov](mailto:Nagle.Deborah@epa.gov)>

**Cc:** Bertrand, Charlotte <[Bertrand.Charlotte@epa.gov](mailto:Bertrand.Charlotte@epa.gov)>

**Subject:** ELGs

Deborah, are you aware of this petition that was filed in 2017 requesting that EPA update its ELGs for large CAFOs?

**Anna Wildeman**

Principal Deputy Assistant Administrator

Office of Water

Environmental Protection Agency

1200 Pennsylvania Avenue, NW

Washington, DC 20460

202-564-5700

[Wildeman.Anna@epa.gov](mailto:Wildeman.Anna@epa.gov)

## Appointment

---

**From:** Magruder, DeMara [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=FD8F214E77747C4ACB044DA64A06582-MAGRUDER, D]  
**Sent:** 6/29/2017 7:31:08 PM  
**To:** Nagle, Deborah [Nagle.Deborah@epa.gov]; Tarah Heinzen [theinzen@fwwatch.org]; kkasserman@fwwatch.org; Brennan, Ross [Brennan.Ross@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Shenk, Kelly [shenk.kelly@epa.gov]  
**CC:** Utting, George [Utting.George@epa.gov]  
**Subject:** CAFO CWA Petition Meeting Follow Up  
**Location:** Dial in: 1-866-299-3188; Passcode: 202-564-1185  
**Start:** 7/5/2017 5:30:00 PM  
**End:** 7/5/2017 6:00:00 PM  
**Show Time As:** Busy

**Required Attendees:** Nagle, Deborah; Tarah Heinzen; kkasserman@fwwatch.org; Brennan, Ross; Molloy, Jennifer; Shenk, Kelly  
**Optional Attendees:** Utting, George

Message

---

**From:** Sawyers, Andrew [Sawyers.Andrew@epa.gov]  
**Sent:** 11/2/2020 8:53:42 PM  
**To:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Subject:** Re: ELGs

Thanks Deborah.

Sent from my iPhone

On Nov 2, 2020, at 3:36 PM, Nagle, Deborah <Nagle.Deborah@epa.gov> wrote:

In case Anna reaches out to you – below is what Simma sent to Rob. I am not sending any of this information to Anna since it is primarily in your lane

-Deborah

---

**From:** Wood, Robert <Wood.Robert@epa.gov>  
**Sent:** Monday, November 2, 2020 3:31 PM  
**To:** Nagle, Deborah <Nagle.Deborah@epa.gov>  
**Subject:** FW: ELGs

This below from Simma. Looks like Anna may have asked about this petition in 2019 and Marcus responded with theses bullets.

---

*Robert Wood, Director  
Engineering and Analysis Division  
U.S. EPA Office of Water  
202-566-1822*

---

**From:** Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Sent:** Monday, November 02, 2020 3:04 PM  
**To:** Levine, MaryEllen <levine.maryellen@epa.gov>; Wood, Robert <Wood.Robert@epa.gov>  
**Cc:** Kloss, Christopher <Kloss.Christopher@epa.gov>  
**Subject:** RE: ELGs

Rob,

## Ex. 5 Attorney Client (AC)

Please let me know if I can do anything to help put together additional information on this. Thanks!

---

# Ex. 5 Attorney Client (AC)

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

---

**From:** Levine, MaryEllen <[levine.maryellen@epa.gov](mailto:levine.maryellen@epa.gov)>  
**Sent:** Monday, November 2, 2020 1:05 PM  
**To:** Wood, Robert <[Wood.Robert@epa.gov](mailto:Wood.Robert@epa.gov)>  
**Cc:** Kloss, Christopher <[Kloss.Christopher@epa.gov](mailto:Kloss.Christopher@epa.gov)>; Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>  
**Subject:** RE: ELGs

Here's what I found – very drafty

- *Mary Ellen*

Mary Ellen Levine  
Assistant General Counsel  
Water Law Office, Office of General Counsel  
7510 C WJC North  
(202) 564-1345

---

**From:** Wood, Robert <[Wood.Robert@epa.gov](mailto:Wood.Robert@epa.gov)>  
**Sent:** Monday, November 02, 2020 1:03 PM  
**To:** Levine, MaryEllen <[levine.maryellen@epa.gov](mailto:levine.maryellen@epa.gov)>  
**Cc:** Kloss, Christopher <[Kloss.Christopher@epa.gov](mailto:Kloss.Christopher@epa.gov)>; Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>  
**Subject:** Re: ELGs

Hi everybody,

I would like to pull together a very brief status report on the petition. Deborah recalls having some meetings with petitioners, but not sure where we left it. Simma, do you have any record? Thanks,

Rob

---

*Robert Wood, Director  
Engineering and Analysis Division  
U.S. EPA Office of Water  
202-566-1822*

On Nov 2, 2020, at 9:41 AM, Levine, MaryEllen <[levine.maryellen@epa.gov](mailto:levine.maryellen@epa.gov)> wrote:

## Ex. 5 Deliberative Process (DP)

- *Mary Ellen*

Mary Ellen Levine  
Assistant General Counsel  
Water Law Office, Office of General Counsel  
7510 C WJC North  
(202) 564-1345

---

**From:** Wood, Robert <[Wood.Robert@epa.gov](mailto:Wood.Robert@epa.gov)>  
**Sent:** Monday, November 02, 2020 9:28 AM  
**To:** Levine, MaryEllen <[levine.maryellen@epa.gov](mailto:levine.maryellen@epa.gov)>  
**Subject:** FW: ELGs

Hi Mary Ellen,

Could you give me a call or alternatively an email reply with any information on the status of this? Thanks.

---

*Robert Wood, Director  
Engineering and Analysis Division  
U.S. EPA Office of Water  
202-566-1822*

---

**From:** Nagle, Deborah <[Nagle.Deborah@epa.gov](mailto:Nagle.Deborah@epa.gov)>  
**Sent:** Monday, November 02, 2020 9:21 AM  
**To:** Wood, Robert <[Wood.Robert@epa.gov](mailto:Wood.Robert@epa.gov)>  
**Subject:** FW: ELGs

You know about this?

---

**From:** Wildeman, Anna <[wildeman.anna@epa.gov](mailto:wildeman.anna@epa.gov)>  
**Sent:** Monday, November 2, 2020 9:00 AM  
**To:** Nagle, Deborah <[Nagle.Deborah@epa.gov](mailto:Nagle.Deborah@epa.gov)>  
**Cc:** Bertrand, Charlotte <[Bertrand.Charlotte@epa.gov](mailto:Bertrand.Charlotte@epa.gov)>  
**Subject:** ELGs

Deborah, are you aware of this petition that was filed in 2017 requesting that EPA update its ELGs for large CAFOs?

Anna Wildeman

Principal Deputy Assistant Administrator  
Office of Water  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
202-564-5700  
[Wildeman.Anna@epa.gov](mailto:Wildeman.Anna@epa.gov)



Message

---

**From:** Nagle, Deborah [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=33888A2BBE8F48AEB4AD9CC54259FB4E-DNAGLE]  
**Sent:** 7/6/2017 1:35:08 PM  
**To:** Magruder, DeMara [Magruder.Demara@epa.gov]  
**Subject:** FW: CAFO petition

DeMara-

Please determine dates and times in early August to meet with the petitioners.

In addition to me, here are the people in WPD that I want you to make sure are available

- Ross Brennan
- Kelly Shenk
- George Utting

Once you have some dates and times, send them to Krissy Kasserman so she can poll her group.

Thanks

Deborah

---

**From:** Krissy Kasserman [mailto:kkasserman@fwwatch.org]  
**Sent:** Wednesday, July 05, 2017 3:56 PM  
**To:** Nagle, Deborah <Nagle.Deborah@epa.gov>  
**Cc:** Tarah Heinzen <theinzen@fwwatch.org>  
**Subject:** CAFO petition

Hi Deborah,

Thanks so much for taking the time to talk with us today about our petition and communication moving forward. The phone line cut out for me several times so I apologize if the back-and-forth conversation was difficult. My contact information is below, and I look forward to working with you to set up a call in early August.

Best,

Krissy

--

Krissy Kasserman  
National Factory Farms Campaigner  
Food & Water Watch  
[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)  
(919) 794-6381 (o)

Ex. 6 Personal Privacy (PP)

Message

---

**From:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Sent:** 7/5/2017 11:19:47 PM  
**To:** Krissy Kasserman [kkasserman@fwwatch.org]  
**Subject:** Re: CAFO petition

Thanks Krissy. You will hear from DeMara Magruder, my scheduler, soon.

Deborah

Sent from my iPhone

On Jul 5, 2017, at 3:57 PM, Krissy Kasserman <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)> wrote:

Hi Deborah,

Thanks so much for taking the time to talk with us today about our petition and communication moving forward. The phone line cut out for me several times so I apologize if the back-and-forth conversation was difficult. My contact information is below, and I look forward to working with you to set up a call in early August.

Best,

Krissy

--

Krissy Kasserman  
National Factory Farms Campaigner  
Food & Water Watch  
[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)  
(919) 794-6381 (o)

Ex. 6 Personal Privacy (PP)

Message

---

**From:** Shriner, Paul [Shriner.Paul@epa.gov]  
**Sent:** 11/27/2020 12:13:06 PM  
**To:** Pritts, Jesse [Pritts.Jesse@epa.gov]; Wood, Robert [Wood.Robert@epa.gov]  
**Subject:** RE: CAFO rulemaking petitions

## Ex. 5 Deliberative Process (DP)

-Paul

---

**From:** Pritts, Jesse <Pritts.Jesse@epa.gov>  
**Sent:** Wednesday, November 25, 2020 11:48 AM  
**To:** Wood, Robert <Wood.Robert@epa.gov>  
**Cc:** Shriner, Paul <Shriner.Paul@epa.gov>  
**Subject:** RE: CAFO rulemaking petitions

## Ex. 5 Deliberative Process (DP)

---

**From:** Wood, Robert <Wood.Robert@epa.gov>  
**Sent:** Wednesday, November 25, 2020 11:32 AM  
**To:** Pritts, Jesse <Pritts.Jesse@epa.gov>  
**Cc:** Shriner, Paul <Shriner.Paul@epa.gov>  
**Subject:** Re: CAFO rulemaking petitions

Thanks, Jesse. This is good. Any issues for us in the table?

---

*Robert Wood, Director  
Engineering and Analysis Division  
U.S. EPA Office of Water  
202-566-1822*

On Nov 25, 2020, at 10:56 AM, Pritts, Jesse <Pritts.Jesse@epa.gov> wrote:

FYI – latest from Marcus:

---

**From:** Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>  
**Sent:** Wednesday, November 25, 2020 10:48 AM  
**To:** Pritts, Jesse <[Pritts.Jesse@epa.gov](mailto:Pritts.Jesse@epa.gov)>  
**Subject:** CAFO rulemaking petitions

Hi Jesse,

## Ex. 5 Deliberative Process (DP)

Happy Thanksgiving!

---

**From:** Kloss, Christopher  
**Sent:** Wednesday, November 25, 2020 10:29 AM  
**To:** Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>  
**Cc:** Chan, Jennifer <[Chan.Jennifer@epa.gov](mailto:Chan.Jennifer@epa.gov)>; Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>  
**Subject:** IB Updates from OWM Bi-Weekly

Hey Marcus,

## Ex. 5 Deliberative Process (DP)

Thanks and happy to chat through these more.

---

Chris Kloss  
Water Permits Division  
US EPA Office of Water  
202.564.1438 (o)

Ex. 6 Personal Privacy (PP)

Message

---

**From:** Wood, Robert [Wood.Robert@epa.gov]  
**Sent:** 11/23/2020 12:01:18 PM  
**To:** Pritts, Jesse [Pritts.Jesse@epa.gov]  
**Subject:** Fwd: CAFO petitions: Talking Points for Andrew, and list of all the issues  
**Attachments:** Appendix A for Petitions to Revise CAFO Regulations draft2.docx; ATT00001.htm; Talking Points for Andrew about CAFO Petitions mz.docx; ATT00002.htm

With attachments.

---

*Robert Wood, Director  
Engineering and Analysis Division  
U.S. EPA Office of Water  
202-566-1822*

Begin forwarded message:

**From:** "Zobrist, Marcus" <Zobrist.Marcus@epa.gov>  
**Date:** November 20, 2020 at 4:58:14 PM EST  
**To:** "Wood, Robert" <Wood.Robert@epa.gov>  
**Cc:** "Scozzafava, MichaelE" <Scozzafava.MichaelE@epa.gov>, "Damico, Brian" <Damico.Brian@epa.gov>, "Utting, George" <Utting.George@epa.gov>, "Shriner, Paul" <Shriner.Paul@epa.gov>  
**Subject:** FW: CAFO petitions: Talking Points for Andrew, and list of all the issues

Rob,

## Ex. 5 Deliberative Process (DP)

---

**From:** Zobrist, Marcus  
**Sent:** Friday, November 20, 2020 4:53 PM  
**To:** Kloss, Christopher <Kloss.Christopher@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>  
**Cc:** Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>  
**Subject:** CAFO petitions: Talking Points for Andrew, and list of all the issues

Chris, Maria,

## Ex. 5 Deliberative Process (DP)

# Ex. 5 Deliberative Process (DP)

Marcus Zobrist |  
Chief, Industrial Branch  
U.S. Environmental Protection Agency  
Office of Wastewater Management | Water Permits Division  
Office: (202) 564-8311 | **Ex. 6 Personal Privacy (PP)**  
[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)

This e-mail is intended solely for the use of the individual or entity to whom it is addressed and its content shall be regarded as confidential unless explicitly stated otherwise. If you have received this e-mail by mistake, please notify the sender immediately by e-mail and delete this e-mail from your system.

Message

**From:** Pritts, Jesse [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=377A4BB09A164281921D55AB06E188AE-JPRITTS]  
**Sent:** 11/25/2020 4:53:48 PM  
**To:** Shriner, Paul [Shriner.Paul@epa.gov]  
**Subject:** FW: CAFO petitions: Talking Points for Andrew, and list of all the issues  
**Attachments:** Appendix A for Petitions to Revise CAFO Regulations draft2.docx

FYI – here is the table Rob mentioned.

---

**From:** Zobrist, Marcus  
**Sent:** Friday, November 20, 2020 4:53 PM  
**To:** Kloss, Christopher <Kloss.Christopher@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>  
**Cc:** Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>  
**Subject:** CAFO petitions: Talking Points for Andrew, and list of all the issues

Chris, Maria,

Regarding the two petitions to revise the CAFO regulations that we have been asked: Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

In order to better understand the scope of the petitions and the commitment of resources that would be necessary to respond to them, I am sharing two documents. One is a set of talking points for Andrew, for potential use at the next bi-weekly with OW. The other is an appendix that charts out the issues raised in the petitions. Ex. 5 Deliberative Process (DP)

## Ex. 5 Deliberative Process (DP)

Thanks to George for developing these documents, they have been review by staff in OGC (Simma) and OST (Paul Shriner), Nizanna and I.

Marcus Zobrist |  
Chief, Industrial Branch  
U.S. Environmental Protection Agency  
Office of Wastewater Management/Industrial Branch/Permits Division  
Office: (202) 564-8311 Ex. 6 Personal Privacy (PP)  
Zobrist.Marcus@epa.gov

This e-mail is intended solely for the use of the individual or entity to whom it is addressed and its content shall be regarded as confidential unless explicitly stated otherwise. If you have received this e-mail by mistake, please notify the sender immediately by e-mail and delete this e-mail from your system.

Message

---

**From:** Pritts, Jesse [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=377A4BB09A164281921D55AB06E188AE-JPRITTS]  
**Sent:** 11/25/2020 3:56:27 PM  
**To:** Scozzafava, MichaelE [Scozzafava.MichaelE@epa.gov]  
**Subject:** FW: CAFO rulemaking petitions

FYI

---

**From:** Pritts, Jesse  
**Sent:** Wednesday, November 25, 2020 10:56 AM  
**To:** Robert Wood <Wood.Robert@epa.gov>  
**Cc:** Shriner, Paul <Shriner.Paul@epa.gov>  
**Subject:** FW: CAFO rulemaking petitions

FYI – latest from Marcus:

---

**From:** Zobrist, Marcus <Zobrist.Marcus@epa.gov>  
**Sent:** Wednesday, November 25, 2020 10:48 AM  
**To:** Pritts, Jesse <Pritts.Jesse@epa.gov>  
**Subject:** CAFO rulemaking petitions

Hi Jesse,

## Ex. 5 Deliberative Process (DP)

Happy Thanksgiving!

---

**From:** Kloss, Christopher  
**Sent:** Wednesday, November 25, 2020 10:29 AM  
**To:** Zobrist, Marcus <Zobrist.Marcus@epa.gov>  
**Cc:** Chan, Jennifer <Chan.Jennifer@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>  
**Subject:** IB Updates from OWM Bi-Weekly

Hey Marcus,

Here is a bit of info from yesterday's discussion with the 3<sup>rd</sup> floor.

## Ex. 5 Deliberative Process (DP)



Chris Kloss  
Water Permits Division  
US EPA Office of Water  
202.564.1438 (o)

Ex. 6 Personal Privacy (PP)

Message

---

**From:** Wildeman, Anna [wildeman.anna@epa.gov]  
**Sent:** 7/22/2020 10:54:15 AM  
**To:** Ross, David P [ross.davidp@epa.gov]  
**CC:** Aguirre, Janita [Aguirre.Janita@epa.gov]  
**Subject:** Fwd: Streamlined Response for Anna- CAFO Petitions before OW  
**Attachments:** Summary - FWW Petition (002).docx; ATT00001.htm

**Anna Wildeman**

Principal Deputy Assistant Administrator  
Office of Water  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
202-564-5700  
[Wildeman.Anna@epa.gov](mailto:Wildeman.Anna@epa.gov)

Begin forwarded message:

**From:** "Sawyers, Andrew" <Sawyers.Andrew@epa.gov>  
**Date:** July 21, 2020 at 5:54:01 PM EDT  
**To:** "Wildeman, Anna" <wildeman.anna@epa.gov>  
**Cc:** "Lopez-Carbo, Maria" <Lopez-Carbo.Maria@epa.gov>  
**Subject:** FW: Streamlined Response for Anna- CAFO Petitions before OW

Hello Anna:

Regarding the 2017 FWW petition:

- The EPA team met with FWW several times regarding this petition. Attached please find a summary of issues raised by FWW and our responses at the time. The petition is still pending. **Ex. 5 Deliberative Process (DP)**

**Ex. 5 Deliberative Process (DP)**

**Ex. 5 Deliberative Process (DP)**

The *withdrawal petition* page is owned and updated by OWM. Because the two petitions listed below are not withdrawal petitions, they were not uploaded to the OWM withdrawal petition website. The regulatory petition page listed below <https://www.epa.gov/aboutepa/petitions-office-water> belongs to OPA.

---

**From:** Wildeman, Anna <[wildeman.anna@epa.gov](mailto:wildeman.anna@epa.gov)>  
**Sent:** Tuesday, July 21, 2020 9:26 AM  
**To:** Sawyers, Andrew <[Sawyers.Andrew@epa.gov](mailto:Sawyers.Andrew@epa.gov)>

**Cc:** Aguirre, Janita <Aguirre.Janita@epa.gov>

**Subject:** FW: CAFO Petitions before OW

Andrew, can you find out for me if EPA responded to these two petitions? If yes, can you please send me our responses. If no, can you let me know if something is in process? Also see Tom's question below on the FWW petition—should it be on our website?

Thanks,  
Anna

---

**From:** Thomas Hebert <tom.hebert@bayardridge.com>

**Sent:** Tuesday, July 21, 2020 9:20 AM

**To:** Wildeman, Anna <wildeman.anna@epa.gov>

**Subject:** CAFO Petitions before OW

Hi Anna,

Below are two petitions. The first by Food and Water Watch et al (2017) is referenced in this story on their website: <https://www.foodandwaterwatch.org/news/dozens-advocacy-groups-challenge-epa-factory-farm-pollution>. If you Google the topic you will find several versions of this same story. To my great surprise, the 2017 petition is **not** listed on the OW website. (<https://www.epa.gov/aboutepa/petitions-office-water>). Food and Water watch says they filed it, there are dozens of reviews in the legal trade press about it, but it is not on your website? I can find no reference in the press, etc. to this 2017 petition being “withdrawn.” I am puzzled.

The second one (2015) is on your website.

I will be interested in hearing what you find out about both of these.

1. <https://buffaloriveralliance.org/resources/Pictures/citizens%20cafo%20cwa%20petition.pdf>
2. [https://www.epa.gov/sites/production/files/2016-09/documents/cwa\\_cafo\\_ebrotzman\\_9\\_2015.pdf](https://www.epa.gov/sites/production/files/2016-09/documents/cwa_cafo_ebrotzman_9_2015.pdf)

Best!

Tom

Message

---

**From:** Sawyers, Andrew [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=49214552A00B4AB7B168EC0EDBA1D1AC-SAWYERS, ANDREW]  
**Sent:** 12/22/2020 7:43:17 PM  
**To:** Wildeman, Anna [wildeman.anna@epa.gov]  
**CC:** Christopher Kloss (Kloss.Christopher@epa.gov) [Kloss.Christopher@epa.gov]; Miller, Wynne [Miller.Wynne@epa.gov]  
**Subject:** FW: CAFO Petitions Summary  
**Attachments:** Appendix A for Petitions to Revise CAFO Regulations final.docx

Hello Anna,

Per your request, the attached the table in Appendix A is intended to be a reference guide to the issues presented in the Food & Water Watch petition, which is one of two petitions seeking revisions to the NPDES regulations and ELGs that address discharges from CAFOs (the petition filed in 2017 by F&WW and a coalition of other environmental petitioners, and **Ex. 5 Deliberative Process (DP)** Although the two petitions do not raise identical issues, the table breaks down the issues raised in the broader F&WW petition. **Ex. 5 Deliberative Process (DP)**

at the end of Appendix A. The table provides a summary of each of the issues presented in the F&WW petition, the offices (OGC, OST, OWM, OECA) most likely to play a key role in the response, some regulatory context, and some other considerations that would factor into a response. **Ex. 5 Deliberative Process (DP)**

Thanks

Message

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**From:** Sawyers, Andrew [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=49214552A00B4AB7B168EC0EDBA1D1AC-SAWYERS, ANDREW]  
**Sent:** 11/18/2020 4:20:43 AM  
**To:** Kloss, Christopher [Kloss.Christopher@epa.gov]  
**Subject:** Re: May 2017 CAFO Rule Petition Filed with US EPA

Thx

Sent from my iPad

On Nov 17, 2020, at 9:45 PM, Kloss, Christopher <Kloss.Christopher@epa.gov> wrote:

Hey Andrew,

This is one of the two petitions to which Anna has asked us to reply.

---

**From:** Sawyers, Andrew <Sawyers.Andrew@epa.gov>  
**Sent:** Tuesday, November 17, 2020 5:43 PM  
**To:** Kloss, Christopher <Kloss.Christopher@epa.gov>  
**Subject:** FW: May 2017 CAFO Rule Petition Filed with US EPA

Hello Chris, are you aware of this petition?

---

**From:** Thomas Hebert <[tom.hebert@bayardridge.com](mailto:tom.hebert@bayardridge.com)>  
**Sent:** Tuesday, November 17, 2020 3:57 PM  
**To:** Sawyers, Andrew <Sawyers.Andrew@epa.gov>  
**Cc:** Michael Formica <[formicam@nppc.org](mailto:formicam@nppc.org)>  
**Subject:** May 2017 CAFO Rule Petition Filed with US EPA

Hi Andrew,

I hope you are well.

Michael Formica mentioned that you were looking at the "CAFO Rule" petition. Just FYI, although the petitioners did all kinds of press when they sent you all the petition, we have never been able to find it on the OW petitions website.

So just in case, attached is the petition that Michael was referring to.

Best!

Tom

Message

---

**From:** Thomas Hebert [tom.hebert@bayardridge.com]  
**Sent:** 11/17/2020 8:56:37 PM  
**To:** Sawyers, Andrew [Sawyers.Andrew@epa.gov]  
**CC:** Michael Formica [formicam@nppc.org]  
**Subject:** May 2017 CAFO Rule Petition Filed with US EPA  
**Attachments:** 2017 Citizens CAFO Rule Petition to US EPA.pdf

Hi Andrew,

I hope you are well.

Michael Formica mentioned that you were looking at the "CAFO Rule" petition. Just FYI, although the petitioners did all kinds of press when they sent you all the petition, we have never been able to find it on the OW petitions website.

So just in case, attached is the petition that Michael was referring to.

Best!

Tom

Message

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**From:** Shriner, Paul [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C03209D0CCBF4B8DA6F68C050A93A492-PSHRINER]  
**Sent:** 5/17/2017 11:30:06 AM  
**To:** Zipf, Lynn [Zipf.Lynn@epa.gov]  
**Subject:** RE: CAFO CWA Petition

I am not the lead for this meeting. OWM is.

I do not know the reason for tomorrow's meeting. I would be talking to George Utting in OWM to catch up.

## Ex. 5 Deliberative Process (DP)

---

**From:** Zipf, Lynn  
**Sent:** Tuesday, May 16, 2017 3:27 PM  
**To:** Nagle, Deborah <Nagle.Deborah@epa.gov>  
**Cc:** Goodwin, Janet <Goodwin.Janet@epa.gov>; Shriner, Paul <Shriner.Paul@epa.gov>; Wood, Robert <Wood.Robert@epa.gov>  
**Subject:** RE: CAFO CWA Petition

Deborah – Paul is out tomorrow and will not be able to participate. I can attend and listen. If you have any more information, please send it along. Thanks.

---

Lynn Zipf, Acting Branch Chief  
Technology and Analytical Support Branch  
Engineering and Analysis Division  
Office of Science and Technology  
Office of Water

EPA West Room 6231Z  
(202) 564-1509

-----Original Appointment-----

**From:** Nagle, Deborah  
**Sent:** Tuesday, May 16, 2017 9:09 AM  
**To:** Nagle, Deborah; Brennan, Ross; Molloy, Jennifer; Utting, George; Bonnelycke, Nina; Tarah Heinzen; Shenk, Kelly; Wood, Robert; Goodwin, Janet; Kupchan, Simma; Levine, MaryEllen  
**Cc:** Sarah Geers; Michele Merkel; Scott Edwards; Terry, Jennifer; Robert Martin; Paul Hinson; Adam Kron; Zipf, Lynn  
**Subject:** FW: CAFO CWA Petition  
**When:** Wednesday, May 17, 2017 2:00 PM-3:00 PM (UTC-05:00) Eastern Time (US & Canada).  
**Where:** 1201 Constitution Avenue, N.W., Room 7217, William Jefferson Clinton Building; Dial in: Ex. 6 Personal Privacy (PP)  
**Passcode:** Ex. 6 Personal Privacy (PP)

I have no idea what this is about. Paul would be the lead for this.

-----Original Appointment-----

**From:** Nagle, Deborah

**Sent:** Monday, May 15, 2017 10:55 AM

**To:** Nagle, Deborah; Brennan, Ross; Molloy, Jennifer; Utting, George; Bonnelycke, Nina; Tarah Heinzen; Shenk, Kelly; Wood, Robert; Goodwin, Janet; Kupchan, Simma; Levine, MaryEllen

**Cc:** Sarah Geers; Michele Merkel; Scott Edwards; Terry, Jennifer; Robert Martin; Paul Hinson; Adam Kron

**Subject:** CAFO CWA Petition

**When:** Wednesday, May 17, 2017 2:00 PM-3:00 PM (UTC-05:00) Eastern Time (US & Canada).

**Where:** 1201 Constitution Avenue, N.W., Room 7217, William Jefferson Clinton Building; Dial in: Ex. 6 Personal Privacy (PP)

Passcode: Ex. 6 Personal Privacy (PP)

Our office is located at 1201 Constitution Avenue, N.W., Washington, DC (Federal Triangle Metro stop). The entrance is on Constitution Avenue near the corner of 12<sup>th</sup> & Constitution Avenue, N.W. Once you arrive at the building, please present your identification to the Security Guard (please see attachment for proper identification). After completing the security procedures, please ask the guard to call 202-564-8478 (DeMara Magruder) so that someone can come down to escort you to the conference room.

Information for attendees who will be calling into the meeting:

Dial In: Ex. 6 Personal Privacy (PP)

Passcode: Ex. 6 Personal Privacy (PP)

Thank you.



## Appointment

---

**From:** Shriner, Paul [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C03209D0CCBF4B8DA6F68C050A93A492-PSHRINER]  
**Sent:** 5/15/2017 3:20:15 PM  
**To:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**CC:** Utting, George [Utting.George@epa.gov]  
  
**Subject:** Declined: CAFO CWA Petition  
**Location:** 1201 Constitution Avenue, N.W., Room 7217, William Jefferson Clinton Building; Dial in: 1-866-299-3188; Passcode: 2025641185#  
  
**Start:** 5/17/2017 6:00:00 PM  
**End:** 5/17/2017 7:00:00 PM  
**Show Time As:** Busy

Message

---

**From:** Matuszko, Jan [Matuszko.Jan@epa.gov]  
**Sent:** 3/22/2017 5:48:36 PM  
**To:** Shriner, Paul [Shriner.Paul@epa.gov]  
**Subject:** RE: Need to discuss the CAFO issue with you today

I will skip it. We just need to know

**Ex. 5 Deliberative Process (DP)**

## **Ex. 5 Deliberative Process (DP)**

---

**From:** Shriner, Paul  
**Sent:** Wednesday, March 22, 2017 12:44 PM  
**To:** Matuszko, Jan <Matuszko.Jan@epa.gov>  
**Subject:** RE: Need to discuss the CAFO issue with you today

The 4 pm meeting (I assume what you are referring to) is a planning discussion for responding to the petition to revise the CAFO rules and ELGs. I will be on that call.

**Ex. 5 Deliberative Process (DP)**

## **Ex. 5 Deliberative Process (DP)**

---

**From:** Matuszko, Jan  
**Sent:** Wednesday, March 22, 2017 7:18 AM  
**To:** Shriner, Paul <Shriner.Paul@epa.gov>  
**Subject:** Need to discuss the CAFO issue with you today

I am invited to a late meeting today because of my role in the ELG plan. Trying to decide if I need to attend. ☺

Jan Matuszko  
Branch Chief  
Engineering and Analytical Support Branch  
Engineering and Analysis Division  
U.S. EPA  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
(202) 566-1035 (office)

**Ex. 6 Personal Privacy (PP)**

Message

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**From:** Shriner, Paul [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=C03209D0CCBF4B8DA6F68C050A93A492-PSHRINER]  
**Sent:** 3/9/2017 3:31:14 PM  
**To:** Goodwin, Janet [goodwin.janet@epa.gov]  
**Subject:** FW: Food & Water Watch et al petition  
**Attachments:** citizens\_cafo\_cwa\_petition.pdf

Thought you would get a kick out of enviros petition for us to revise and strengthen the CAFO rules in the current political climate.

---

**From:** Levine, MaryEllen  
**Sent:** Wednesday, March 08, 2017 5:29 PM  
**To:** Wood, Robert <Wood.Robert@epa.gov>  
**Cc:** Nagle, Deborah <Nagle.Deborah@epa.gov>; Witt, Richard <Witt.Richard@epa.gov>; Shriner, Paul <Shriner.Paul@epa.gov>  
**Subject:** FW: Food & Water Watch et al petition

OWM has this but it in part asks us to revise the CAFO ELGs

- *Mary Ellen*

Mary Ellen Levine  
Assistant General Counsel  
Water Law Office, Office of General Counsel  
7510 C WJC North  
(202) 564-5487

---

**From:** Kupchan, Simma  
**Sent:** Wednesday, March 08, 2017 5:06 PM  
**To:** Levine, MaryEllen <levine.maryellen@epa.gov>; Neugeboren, Steven <Neugeboren.Steven@epa.gov>  
**Subject:** FW: Food & Water Watch et al petition

FYI – petition to revise the CAFO regulations.

Simma Kupchan  
Water Law Office  
US EPA Office of General Counsel  
William Jefferson Clinton Building North Room 7426Q  
(p) 202-564-3105

---

**From:** Bonnelycke, Nina  
**Sent:** Wednesday, March 08, 2017 5:02 PM  
**To:** Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Cc:** Molloy, Jennifer <molloy.jennifer@epa.gov>; Abrams, Nancy <Abrams.Nancy@epa.gov>  
**Subject:** Fw: Food & Water Watch et al petition

Just in case you haven't seen this yet.

~~~~~  
Nina J. Bonnelycke
Rural Branch, Water Permits Division
Office of Wastewater Management
U.S. Environmental Protection Agency
1200 Pennsylvania Ave., N.W., 4203M
Washington, D.C. 20460
(202)564-0764

From: Molloy, Jennifer
Sent: Wednesday, March 8, 2017 4:52 PM
To: Abrams, Nancy; Bonnelycke, Nina; Jones, Kristin; Subramanian, Hema; Utting, George; Ziobro, Joseph
Subject: Food & Water Watch et al petition

I haven't read it carefully, but I scanned it. It's interesting and also frustrating.

Jenny Molloy
U.S. EPA
Water Permits Division
202.564.1939
molloy.jennifer@epa.gov

Message

From: Stebe, Katherine [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6DD404AF877C44358D736C2617BE55E4-KTELLEN]
Sent: 7/31/2020 5:15:49 PM
To: Evalenko, Sandy [Evalenko.Sandy@epa.gov]
CC: Akopian, Natalia [Akopian.Natalia@epa.gov]
Subject: RE: with attachments: Time sensitive- Action: Petitions list needs updating
Attachments: summary Update of OW petitions 7_27_2020_OWM.docx

Also, here's the 2015 CAFO petition that's already on the website; not sure if you needed something on this as well.

Title: Rulemaking Petition to lower the threshold that qualifies animal feeding operations ("AFOs") as concentrated animal feeding operations ("CAFOs") and thereby "point sources" under§ 402 of the Clean Water Act ("CWA")

- **Date Sent to EPA; Date received in OW:** September 2015
- **Name of Petitioner(s):** Erika Brotzman
- **Related statute:** Clean Water Act
- **Brief description (1-2 sentences):** Rulemaking Petition to lower the threshold that qualifies animal feeding operations ("AFOs") as concentrated animal feeding operations ("CAFOs") and thereby "point sources" under§ 402 of the Clean Water Act ("CWA").
- https://www.epa.gov/sites/production/files/2016-09/documents/cwa_cafo_ebrotzman_9_2015.pdf

From: Evalenko, Sandy <Evalenko.Sandy@epa.gov>
Sent: Friday, July 31, 2020 11:32 AM
To: Stebe, Katherine <Stebe.Katherine@epa.gov>
Cc: Akopian, Natalia <akopian.natalia@epa.gov>
Subject: RE: with attachments: Time sensitive- Action: Petitions list needs updating

Thanks!

From: Stebe, Katherine <Stebe.Katherine@epa.gov>
Sent: Friday, July 31, 2020 11:30 AM
To: Evalenko, Sandy <Evalenko.Sandy@epa.gov>
Cc: Akopian, Natalia <akopian.natalia@epa.gov>
Subject: RE: with attachments: Time sensitive- Action: Petitions list needs updating

Right, I did not hear of others except the rulemaking ones.

Thanks,
Katherine

From: Evalenko, Sandy <Evalenko.Sandy@epa.gov>
Sent: Friday, July 31, 2020 9:44 AM
To: Stebe, Katherine <Stebe.Katherine@epa.gov>
Cc: Akopian, Natalia <akopian.natalia@epa.gov>
Subject: RE: with attachments: Time sensitive- Action: Petitions list needs updating

Katherine: Thanks for your email. The list will include all outstanding or active petitions. The first list is regulatory. The second is other petitions. If OWM has petitions related to NPDES programs or

some other programmatic area that is not asking us to do a regulation, these go on the second list. It looks like you have zero—right?

From: Stebe, Katherine <Stebe.Katherine@epa.gov>

Sent: Thursday, July 30, 2020 11:15 PM

To: Evalenko, Sandy <Evalenko.Sandy@epa.gov>; Akopian, Natalia <akopian.natalia@epa.gov>

Subject: RE: with attachments: Time sensitive- Action: Petitions list needs updating

Hi Sandy,

Attached is information about the 2017 Food and Water Watch CAFO petition, which is one of the petitions attached to your email. **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP)

Regarding the 2017 FWW petition:

- The EPA team met with FWW several times regarding this petition. Attached please find a summary of issues raised by FWW and our responses at the time. The petition is still pending. **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Thank you,
Katherine

From: Evalenko, Sandy <Evalenko.Sandy@epa.gov>

Sent: Monday, July 27, 2020 2:05 PM

To: Flaharty, Stephanie <Flaharty.Stephanie@epa.gov>; Stebe, Katherine <Stebe.Katherine@epa.gov>; Weyer, Erica <weyer.eric@epa.gov>; Bravo, Antonio <Bravo.Antonio@epa.gov>

Cc: Guilaran, Yu-Ting <Guilaran.Yu-Ting@epa.gov>; Miller, Wynne <Miller.Wynne@epa.gov>; Connors, Sandra <Connors.Sandra@epa.gov>; Mottley, Tanya <Mottley.Tanya@epa.gov>; Tiago, Joseph <Tiago.Joseph@epa.gov>; Sylvester, Francis <Sylvester.Francis@epa.gov>; Santell, Stephanie <Santell.Stephanie@epa.gov>; Aguirre, Janita <Aguirre.Janita@epa.gov>; Lousberg, Macara <Lousberg.Macara@epa.gov>; Ruf, Christine <Ruf.Christine@epa.gov>; Akopian, Natalia <akopian.natalia@epa.gov>

Subject: with attachments: Time sensitive- Action: Petitions list needs updating

Importance: High

With the two attached petitions.....

From: Evalenko, Sandy

Sent: Monday, July 27, 2020 1:26 PM

To: Flaharty, Stephanie <Flaharty.Stephanie@epa.gov>; Stebe, Katherine <Stebe.Katherine@epa.gov>; Weyer, Erica <weyer.eric@epa.gov>; Bravo, Antonio <Bravo.Antonio@epa.gov>

Cc: Guilaran, Yu-Ting <Guilaran.Yu-Ting@epa.gov>; Miller, Wynne <Miller.Wynne@epa.gov>; Connors, Sandra <Connors.Sandra@epa.gov>; Mottley, Tanya <Mottley.Tanya@epa.gov>; Tiago, Joseph <Tiago.Joseph@epa.gov>; Sylvester, Francis <Sylvester.Francis@epa.gov>; Santell, Stephanie <Santell.Stephanie@epa.gov>; Aguirre, Janita <Aguirre.Janita@epa.gov>; Lousberg, Macara <Lousberg.Macara@epa.gov>; Ruf, Christine <Ruf.Christine@epa.gov>;

Akopian, Natalia <Akopian.Natalia@epa.gov>

Subject: Time sensitive- Action: Petitions

Importance: High

SRMs:

OP asked the offices to update the list of rulemaking petitions on EPA's website. The three criteria for rulemaking petitions are below and a description of the exemptions. I have attached two petitions that need to be added to the EPA site. Please let me know if there are others.

In addition to rulemaking petitions, OW senior management (Anna) asked that offices identify any and all other active petitions; i.e. all open petitions that OW has not responded to, regardless of when OW received them.

Please provide two lists of petitions on the attached worksheets by this Friday, July 31, to me and Natalia Akopian:

- A. Rulemaking petitions to add to the EPA website: List the following meta data for each
 - a. Title
 - b. Date sent to EPA and date received
 - c. Petitioner(s)
 - d. Related statute
 - e. Brief description (1-2 sentences)
- B. All other active/open petitions: Please provide a copy of provide a copy of the petition and website link (if available) and list the following meta data for each
 - a. Title
 - b. Date sent to EPA and date received
 - c. Petitioner(s)
 - d. Related statute
 - e. Brief description (1-2 sentences)

EPA's Rulemaking Petition information and website

These pages (the OP web site) provide information on incoming communications styled as "**petitions**" for **generally applicable, national rulemakings**. More specifically, the three criteria for identifying an incoming communication as a rulemaking petition are:

1. Uses the word "**petition**," AND
2. Requests the Agency to do a **rulemaking** activity (to promulgate a new rule or to change or repeal an existing rule), AND
3. The resulting or affected rule is one that **applies generally** to a class or category of entities or activities (as opposed to a permit or adjudication that applies to named facilities) AND
4. Was received on or after January 1, 2013.

*** Petitions provided as comments in a publicly available rulemaking docket **are not included** on the web pages, nor are petitions for reconsideration of rules recently issued under the Clean Air Act. (This may apply to all statutes – need to confirm)

Petitions to the Office of Water

This page makes available petitions for rulemaking received by the Office of Water on or after January 1, 2013. For the purposes of this page, the agency has posted incoming communications styled as "petitions" for generally applicable, national rulemakings. Petitions provided as comments in a publicly available rulemaking docket are not reproduced here. Additional petitions will be added on an ongoing basis as they are received or identified; petitions on this page were last updated on April 11, 2017.

The presence of a petition on this page does not indicate an EPA decision to grant or deny the petition. Any regulatory action that follows as a result of a petition for rulemaking would still be shaped by the typical outreach used by the agency to gather stakeholder input, and is still subject to any applicable notice and comment requirements. [Petitions for rulemaking from other offices.](#)

Date Received	Petitioners	Related Statutes	Description
April 5, 2017	Charles Maresca, Director of Interagency Affairs, SBA Office of Advocacy	Clean Water Act	The U.S. Small Business Administration, Office of Advocacy, submits a regulatory petition to modify the final Steam Electric Power Plant Effluent Limitations Guidelines which imposed technology-based standards to control wastewater under the Clean Water Act. Read the petition.
March 23, 2016	National Resources Defense Council	Safe Drinking Water Act (SDWA)	Citizen petition to repeal or amend the EPA's aquifer exemption regulations to protect underground sources of drinking water. Read the petition.
March 24, 2017	Harry M. (Pete) Johnson III of	Clean Water Act	The Utility Water Act Group1 (UWAG) hereby

Hunton &
Williams
(representing the
Utility Water Act
Group)

petitions the U.S. EPA pursuant to 5 U.S.C. § 553(e) for a rulemaking to reconsider the Effluent Limitations Guidelines and Standards for the Steam Electric Power Generating Point Source Category; Final Rule. UWAG also seeks an administrative stay of the Rule pursuant to 5 U.S.C. § 705 because the Rule is currently in litigation. [Read the petition.](#)

March 29, 2016	North Carolina Department of Environmental Quality	Safe Drinking Water Act (SDWA)	Petition for rulemaking to strengthen the Lead and Copper Rule under the SDWA. Read the petition.
May 14, 2013	Earthjustice	CWA Section 303(c)(4)	Final Petition for Rulemaking to Set Water Quality Standards to Protect Appalachian Waters from Mining Waste and Harmful Levels of Conductivity. Read the petition.
September 20, 2015	E. Brotzman	Clean Water Act (CWA)	Rulemaking petition to expand coverage over the number of Animal Feeding Operations (AFOs) that qualify as Concentrated Animal Feeding Operations (CAFOS) under CWA. Read the petition.

Overview – March 8, 2017 CAFO Rulemaking Petition from Food & Water Watch and Others

Petitioners:

Food and Water Watch
Arkansas Rights Coalition
Assateague Coastal Trust (MD)
Association of Irrigated Residents (CA)
Buffalo River Watershed Alliance (AR)
Center for Biological Diversity
Center for Food Safety
Concerned Citizens Against Industrial CAFOs (MD)
Dakota Rural Action (SD)
Dallas County Farmers and Neighbors (IA)
Des Moines Water Works (IA)
Dodge County Concerned Citizens (MN)
Don't Waste Arizona
Environmental Integrity Project
Grand Riverkeeper (OK)
Helping Others Maintain Environmental Standards (IL)
Illinois Citizens for Clean Air and Water (IL)
Institute for Agriculture and Trade Policy

Interfaith Worker Justice (NM)
Iowa Citizens for Community Improvement
Jefferson County Farmers and Neighbors (IA)
Johns Hopkins Center for a Livable Future
Kewaunee Citizens Advocating Responsible
Environmental Stewardship (WI)
Land Stewardship Project (MN)
Midwest Environmental Advocates (WI)
Missouri Rural Crisis Center
Moms Across America Eastern Shore (MD)
Montgomery Township Friends of Family Farms (PA)
North Carolina Environmental Justice Network
Ozark River Stewards (AR)
Patuxent Riverkeeper (MD)
Poweshiek Community Action to Restore
Environmental Stewardship (IA)
Preserve Our Shore Accomack County (VA)
Rio Valle Concerned Citizens (NM)

Relief Sought – Petitioners ask EPA to:

1. Establish an evidentiary presumption that certain CAFOs actually discharge

Ex. 5 Deliberative Process (DP)

2. Re-interpret agricultural stormwater exemption so that no discharges resulting from CAFO activities are exempt as non-point source pollution

Ex. 5 Deliberative Process (DP)

3. Ensure that integrators who meet the CWA definition of owner or operator are co-permitted with contract producers

Ex. 5 Deliberative Process (DP)

4. Revise the regulatory definitions of “medium CAFO” and “production area” and revise designation authorities

Ex. 5 Deliberative Process (DP)

5. Require water quality monitoring in all CAFO NPDES permits

Ex. 5 Deliberative Process (DP)

6. EPA should revise CAFO effluent guidelines

Ex. 5 Deliberative Process (DP)

Chronology

3/8/2017: FWW and 34 other organizations file petition

5/17/2017: Initial meeting with Deborah Nagle; agrees to dialogue.

7/5/2017: FWW leads hold planning call with Deborah Nagle to map next steps

8/30/2017. Call with Deborah Nagle and petitioner groups

2/27/2018. Call with Marcus Zobrist (as acting DD) and petitioner groups

(Ross and FWW have held several other planning and “touch base” calls.)

Observations about calls

Ex. 5 Deliberative Process (DP)

Topics for Discussion

Ex. 5 Deliberative Process (DP)

Message

From: Stebe, Katherine [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6DD404AF877C44358D736C2617BE55E4-KTELLEN]
Sent: 3/29/2017 7:00:20 PM
To: Evalenko, Sandy [Evalenko.Sandy@epa.gov]
CC: Ruf, Christine [Ruf.Christine@epa.gov]; Lousberg, Macara [Lousberg.Macara@epa.gov]; Gilbertson, Sue [gilbertson.sue@epa.gov]
Subject: RE: Response please: Petitions for Rulemaking Website

You're welcome. Also, based on what I've heard so far, we are not aware of any other petitions received for OWM.

From: Evalenko, Sandy
Sent: Wednesday, March 29, 2017 2:59 PM
To: Stebe, Katherine <Stebe.Katherine@epa.gov>
Cc: Ruf, Christine <Ruf.Christine@epa.gov>; Lousberg, Macara <Lousberg.Macara@epa.gov>; Gilbertson, Sue <gilbertson.sue@epa.gov>
Subject: RE: Response please: Petitions for Rulemaking Website

Katherine: Thanks for your response.

From: Stebe, Katherine
Sent: Tuesday, March 28, 2017 3:03 PM
To: Evalenko, Sandy <Evalenko.Sandy@epa.gov>
Cc: Ruf, Christine <Ruf.Christine@epa.gov>; Lousberg, Macara <Lousberg.Macara@epa.gov>; Gilbertson, Sue <gilbertson.sue@epa.gov>
Subject: RE: Response please: Petitions for Rulemaking Website

The Food & Water Watch CAFO petition came to us through CMS and we sent a response last week (for Mike's signature).

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

No other CAFO/NPDES Ag petitions within this time frame (since 11/20/2016). Will let you know if we're aware of any other petitions.

From: Evalenko, Sandy
Sent: Tuesday, March 28, 2017 1:38 PM
To: Flaharty, Stephanie <Flaharty.Stephanie@epa.gov>; Gerstein, Arielle <gerstein.arielle@epa.gov>; Nelson, Tomeka <Nelson.Tomeka@epa.gov>; Stebe, Katherine <Stebe.Katherine@epa.gov>
Cc: Evalenko, Sandy <Evalenko.Sandy@epa.gov>; Lousberg, Macara <Lousberg.Macara@epa.gov>; Ruf, Christine <Ruf.Christine@epa.gov>
Subject: Response please: Petitions for Rulemaking Website
Importance: High

SRMs -- Please let me know if your office has received any rulemaking petitions between 11/2016 and now. Attached is a list from CMS of documents that were identified as petitions provided by Diane Jones-Coleman. Please let me know if you have any additional petitions than those on the attached list. We recently received a petition through a docket and it was added to CMS.

If it's not clear if the document is a petition, OGC prepared the following three criteria to identify petitions for EPA's website. If this description sticks, that means we are looking for incoming communications from non EPA entities or individuals that:

1. Use the word "petition," AND
2. Request the Agency to do a rulemaking activity (to promulgate a new rule or to change or repeal an existing rule), AND
3. the resulting or affected rule is one that applies generally to a class or category of entities or activities (as opposed to a permit or adjudication that applies to named facilities.)

If you have additional petitions, please submit an electronic copy of the petition and the following information to me:

Date the petition was received:

Name of the petitioner:

Statute relevant to the petition:

Brief description of the issue:

I will make the document 508 compliant and submit it to

Katherine: Please let me know if OWM is addressing this petition on the attached list -- AX-17-000-5937
Heinzen, Tarah Food & Water Watch Pending 03/08/2017 DRF - Clean Water Act petition to revise the Environmental Protection Agency's regulations for concentrated animal feeding operations.

Thanks,
Sandy

Message

From: Subramanian, Hema [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=65E089600E8B4724A2E85997849BD208-SUBRAMANIAN, HEMA]
Sent: 9/11/2017 2:48:28 PM
To: Utting, George [Utting.George@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]
Subject: FW: EPA CAFO PETITION

Forwarding message from Kent Woodmansey re: Food & Water Watch petition, if one of you are still POC and could respond as appropriate.

Hema Subramanian
Environmental Protection Specialist
U.S. Environmental Protection Agency
Office of Water: Office of Wastewater Management/Water Permits Division/Rural Branch
1200 Pennsylvania Avenue, NW
Mail Code 4203M
Washington, DC 20460
Phone (202) 564-5041
subramanian.hema@epa.gov

From: Woodmansey, Kent [mailto:Kent.Woodmansey@state.sd.us]
Sent: Tuesday, August 22, 2017 3:26 PM
To: Subramanian, Hema <Subramanian.Hema@epa.gov>
Subject: EPA CAFO PETITION

Hema, I am sure that EPA cannot talk about this until there is a response, but after the response if you can share that with us, we would appreciate it. Kent.

http://www.biologicaldiversity.org/programs/population_and_sustainability/pdfs/Citizens_CAFO_CWA_Petition.pdf

Message

From: Subramanian, Hema [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=65E089600E8B4724A2E85997849BD208-SUBRAMANIAN, HEMA]
Sent: 2/28/2019 1:21:37 PM
To: Utting, George [Utting.George@epa.gov]
CC: Zobrist, Marcus [Zobrist.Marcus@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]
Subject: Re: Food and Water Watch Petition to Revise the CAFO Rule?

Ok, Marcus, if you could just let me know when someone gets back to him, that would be great.

Hema Subramanian
Senior Advisor (Agriculture)
Office of the Administrator
U.S. Environmental Protection Agency
Washington, DC

On Feb 25, 2019, at 10:55 AM, Utting, George <Utting.George@epa.gov> wrote:

I think this is really a question that needs a management response. Also, I'm wondering who is the point of contact for ag sector questions like this, these days? For what it's worth, I'm pretty sure I'm not the right person.

GU

From: Subramanian, Hema
Sent: Monday, February 25, 2019 10:44 AM
To: Utting, George <Utting.George@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>
Subject: RE: Food and Water Watch Petition to Revise the CAFO Rule?

Happy Monday. Was anyone able to get back to Tom about this?

Hema Subramanian
Senior Advisor (Agriculture)
Office of the Administrator
U.S. Environmental Protection Agency
Washington, DC

From: Subramanian, Hema
Sent: Friday, February 8, 2019 4:19 PM
To: Utting, George <Utting.George@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>
Subject: FW: Food and Water Watch Petition to Revise the CAFO Rule?

Anyone working on this?

From: Thomas Hebert <tom.hebert@bayardridge.com>
Sent: Friday, February 8, 2019 4:07 PM

To: Subramanian, Hema <Subramanian.Hema@epa.gov>

Subject: Food and Water Watch Petition to Revise the CAFO Rule?

Hi Hema,

I was asked recently about where this stood, and I said "I have no idea, but I know someone to ask." Any idea?

"EPA must take further action to fulfill its CWA obligations, and the Agency's 2003 and 2008 rulemaking attempts do not in any way lessen this duty. EPA maintains clear authority to strengthen its approach to CAFO regulation in numerous ways, and has amassed a large volume of new information about CAFO pollution since it put forth the 2001 proposal that largely shaped the current regulations. This petition lays out a regulatory course of action for EPA to better use its authority to control CAFO pollution and further the objectives of the Act."

[https://www.biologicaldiversity.org/programs/population_and_sustainability/pdfs/Citizens CAFO CWA Petition.pdf](https://www.biologicaldiversity.org/programs/population_and_sustainability/pdfs/Citizens_CAFO_CWA_Petition.pdf)

Have a good weekend.

Tom

Tom Hebert

Bayard Ridge Group LLC

tom.hebert@bayardridge.com

Ex. 6 Personal Privacy (PP)

202-407-9069 (desk)

Message

From: Subramanian, Hema [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=65E089600E8B4724A2E85997849BD208-SUBRAMANIAN, HEMA]
Sent: 11/26/2018 6:57:37 PM
To: Molloy, Jennifer [molloy.jennifer@epa.gov]; Zobrist, Marcus [Zobrist.Marcus@epa.gov]; Utting, George [Utting.George@epa.gov]
Subject: RE: Meeting with Bryan Mussard next week

Fwding below a lot of notes from prior discussions. Also recommend looping in Rebecca Perrin (R8 Ag Advisor) into your prep, as she may dial in. (She wasn't able to be at the last AADG meeting which Bryan attended, but has been in the loop with this group over time.)

FYI – I will not be able to attend as I'm traveling to speak at Wyoming and Iowa cattle conventions next week, but am staying on the meeting invite for updates. The OA is not able to meet with them separately this time.

Hema Subramanian
Office of the Administrator
U.S. Environmental Protection Agency
Washington, DC
office: (202) 564-5041

From: Rise, David
Sent: Monday, June 04, 2018 12:19 PM
To: Subramanian, Hema <Subramanian.Hema@epa.gov>; Utting, George <Utting.George@epa.gov>; Brennan, Ross <Brennan.Ross@epa.gov>; Perrin, Rebecca <Perrin.Rebecca@epa.gov>
Subject: Montana Stockgrowers Questions.

Hi All;

I could not get a hold of Bryan Mussard last week, so sent him this email below on Friday afternoon with an added note that I would call him this morning at 0700.

When I called this morning I found that he had been at cow camp with no cell service last week. I should be so lucky. He did read my email but is now doing catch up on meetings and calls but said he will call me when his other things are done.

The email I sent Friday:

Mr. Mussard;

I have been asked to respond to you concerning the issues you raised during a recent meeting with the EPA Administrator. The list of issues I have been given is below, I have inserted responses in red text.

Water

CWA/NPDES/State WQ CAFO Regs:

- Concerns around excess fines and violations for paperwork issues. The Montana Department of Environmental Quality (MDEQ) has been authorized to implement the Clean Water Act (CWA) in Montana except for Indian country. The EPA has not conducted any enforcement actions on CAFOs to my knowledge so these would be

MDEQ actions. The MDEQ has a penalty policy they use to determine penalties for CWA violations. You could probably get a copy of that policy from them by asking.

- Request for streamlining paperwork and monitoring burdens where possible under CWA/NPDES CAFO Regs. E.g.,
 - Their forms require repeatedly checking off many boxes for monitoring checklist, could it be a single checkbox for when all monitoring on the list has been completed? I am not sure of this requirement, monitoring discharges of wastewater from the CAFOs or the inspection requirements? I could not find any inspection or water monitoring forms on the MDEQ website. If it is the daily/weekly facility inspection forms that this question references, I would recommend contacting the MDEQ to see if you could work with them to develop more user friendly forms.
 - Any way to simplify/streamline NMP paperwork? (Bryan Mussard would be interested in working with OWM/AADG on specific NMP recommendations.) The field level soil and manure sampling and analysis is needed to ensure manure, litter, wastewater, etc. is applied to fields at agronomic rates and is required by regulation. The annual reporting is required by regulation. The MDEQ does have a NMP form on their website where producers can fill in the blanks to complete the NMP. However, it still requires the field level sampling and analysis.
- Any relief from monitoring possible during the 9 months per year that their CAFO operations are shut down? I would recommend you contact MDEQ to see if there is a possibility that a single note could be made on the form. A possible language example could be: "The facility was empty of animals from [date] to [date]. During that time all watering points were turned off to prevent leaks, overflows, spills and runoff. Facility staff did conduct drive-around inspections of the facility on [insert an interval] and did not see any leaks, overflows, spills or runoff at the facility."
- Confusion over which reg requirements are federal NPDES versus which are the state DEQ requirements. E.g.,
 - NMP requirements for manure that's already been transferred offsite. The EPA requires any manure transferred to another person/business to be accompanied with an analysis of the nutrients in the manure. Manure transferred from the production area to a site covered under the NMP must be applied according to the NMP.
 - All CAFOs need to be permitted regardless of discharge? The MDEQ also permits facilities for possible ground water discharge (infiltration), also the state can make their requirements more stringent than the federal requirements, either by statute or regulation. Per Federal Court decisions, under the CWA, the EPA regulates discharges, not facilities and therefore would not require a permit of a facility that does not discharge, though any unpermitted facility would still be liable under the CWA if they did discharge pollutants to a water of the U.S. without a permit.
- Request for EPA to respond to enviro (Food & Water Watch et. al) petition on strengthening CAFO regs, so that it doesn't unnecessarily end up in a suit for failure to respond. I have been told this is being handled through the EPA Headquarters offices.
- Bryan Mussard would be interested in participating in the AADG as an individual producer, particularly in discussions about NMP/reporting. You are very welcome to participate, I think have producers there would provide some good perspective on how the requirements affect individual operations. I would say contact Scott Yager for additional information on when and where they are held.

David Rise, Wastewater Unit
EPA Region 8 (8TMS-MU)
10 West 15 Street, Suite 3200
Helena, MT 59626
(406) 457-5012

From: Subramanian, Hema

Sent: Monday, April 16, 2018 11:03 AM

To: Campbell, Ann <Campbell.Ann@epa.gov>; Wright, Rhonda <Wright.Rhonda@epa.gov>; Branning, Hannah <Branning.Hannah@epa.gov>

Cc: Shiffman, Cari <Shiffman.Cari@epa.gov>

Subject: FW: Notes from Montana Stockgrowers Meeting

Ann, Rhonda, and Hannah,

The Administrator (along with Stephen Gordon – OPEEE, Daisy Letendre – OP Smart Sectors, and I) met with the Montana Stockgrowers Association last Thursday. See notes below, there are some followups particularly for OW (OWM). I can help with any questions, and please let us know if any followups occur.

Many thanks,

---Hema.

Hema Subramanian
Acting Special Assistant for Agriculture Policy
Office of the Administrator
U.S. Environmental Protection Agency
Washington, DC
office: (202) 564-5041

Montana Stockgrowers Association – 4/12 Meeting

Main POCs:

Bryan Mussard, President

Jim Steinbeisser, 2nd VP,

(Group was accompanied by Scott Yager, NCBA)

Ex. 6 Personal Privacy (PP)

Water

CWA/NPDES/State WQ CAFO Regs:

- Concerns around excess fines and violations for paperwork issues.
- Request for streamlining paperwork and monitoring burdens where possible under CWA/NPDES CAFO Regs. E.g.,
 - Their forms require repeatedly checking off many boxes for monitoring checklist, could it be a single checkbox for when all monitoring on the list has been completed?
 - Any way to simplify/streamline NMP paperwork? (Bryan Mussard would be interested in working with OWM/AADG on specific NMP recommendations.)
- Any relief from monitoring possible during the 9 months per year that their CAFO operations are shut down?
- Confusion over which reg requirements are federal NPDES versus which are the state DEQ requirements. E.g.,
 - NMP requirements for manure that's already been transferred offsite.
 - All CAFOs need to be permitted regardless of discharge?
- Request for EPA to respond to enviro (Food & Water Watch et. al) petition on strengthening CAFO regs, so that it doesn't unnecessarily end up in a suit for failure to respond.

319: Want support for the grant program—important and valued in MT.

WOTUS: Praised recent actions.

Air

Forest fires are a significant issue, but can't do controlled burns to manage them. Forest Service referred them to EPA, pointing to air regulations as potentially being the reason. Requested flexibility for short term/emergency allowances of controlled burns.

OECA

NEI: Request to consider dropping CAFOs when NEIs are up for renewal.

Follow ups:

- Sending notes to OW, OAR, OECA.
- OW/OWM:

Ex. 5 Deliberative Process (DP)

From: Molloy, Jennifer

Sent: Monday, November 26, 2018 1:35 PM

To: Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Utting, George <Utting.George@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>

Subject: RE: Meeting with Bryan Mussard next week

George and I agreed this morning that we both didn't need to be there. So, since you are anointing him, I will not attend.

Jenny Molloy

U.S. EPA

Water Permits Division

202.564.1939

molloy.jennifer@epa.gov

From: Zobrist, Marcus

Sent: Monday, November 26, 2018 1:32 PM

To: Utting, George <Utting.George@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>; Shenk, Kelly <shenk.kelly@epa.gov>; Rathbone, Colleen <Rathbone.Colleen@epa.gov>; Zhang, Qian <Zhang.Qian@epa.gov>

Subject: Meeting with Bryan Mussard next week

Next Tuesday at 10 AM Bryan Mussard of the Montana Stockgrowers Association is meeting with Andrew and others to discuss "CAFO Permit Regulations." While that could be just about anything, this is what he mentioned at the most recent AADG meeting (from Joseph's unrefined notes):

Montana (Bryan Mussard)

- State/fed discrepancies/disconnect (e.g., State says "non-discharging" feedlot [in a desert] needs permit because Feds. say so)
- There should be different permit types for other facilities with different fact patterns.

- Is this a State or Fed issue?

If anyone has additional ideas about what he might want to talk about – please respond.

A whopping 14 people (not counting schedulers) are invited. I will suggest that Colleen, Qian and George, take the lead in answering questions regarding the CAFO regs. Not sure why OWOW was invited. Is there a need to invite OGC/ORC? I'm thinking not. I will also suggest that many of the OWM managers do not need to attend. I will attend at least part of it – but I have two conflicts that morning.

This meeting also conflicts with a recently scheduled OW “all-hands” meeting.

Marcus Zobrist |
Chief, Industrial Branch
U.S. Environmental Protection Agency
Office of Wastewater Management | Water Permits Division
Office: (202) 564-8311 **Ex. 6 Personal Privacy (PP)**
Zobrist.Marcus@epa.gov

This e-mail is intended solely for the use of the individual or entity to whom it is addressed and its content shall be regarded as confidential unless explicitly stated otherwise. If you have received this e-mail by mistake, please notify the sender immediately by e-mail and delete this e-mail from your system.

Message

From: Subramanian, Hema [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=65E089600E8B4724A2E85997849BD208-SUBRAMANIAN, HEMA]
Sent: 5/4/2020 9:00:20 PM
To: Meadows, Carrie Vicenta [Meadows.CarrieVicenta@epa.gov]
Subject: FW: need ag FACA TPs for Administrator by 11 a.m.

From: Shaw, Nena <Shaw.Nena@epa.gov>
Sent: Monday, May 4, 2020 1:01 PM
To: Striegel, Megan <Striegel.Megan@epa.gov>; Sharpe, Kristinn <Sharpe.Kristinn@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>
Subject: RE: need ag FACA TPs for Administrator by 11 a.m.

All – We have tried to get some information on an environmental NGO CAFO petition from 2017 that EPA still needs to respond to. My sense is that there is not a lot to say here other than we are still working on it. Do you all have any more information? Thanks. Nena

Nena Shaw
Smart Sectors Program
Office of Policy, Immediate Office
U.S. Environmental Protection Agency
Office: (202) 564-5106

Ex. 6 Personal Privacy (PP)



From: Striegel, Megan <Striegel.Megan@epa.gov>
Sent: Monday, May 4, 2020 10:05 AM
To: Shaw, Nena <Shaw.Nena@epa.gov>; Sharpe, Kristinn <Sharpe.Kristinn@epa.gov>; Meadows, Carrie Vicenta <Meadows.CarrieVicenta@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>
Subject: RE: need ag FACA TPs for Administrator by 11 a.m.

Great! Thank you both.

From: Shaw, Nena <Shaw.Nena@epa.gov>
Sent: Monday, May 4, 2020 10:01 AM
To: Sharpe, Kristinn <Sharpe.Kristinn@epa.gov>; Striegel, Megan <Striegel.Megan@epa.gov>; Meadows, Carrie Vicenta <Meadows.CarrieVicenta@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>
Subject: RE: need ag FACA TPs for Administrator by 11 a.m.

Hi Megan. It is Brittany's call on the invitation and we have raised it. Just so you know, we think she should be there.
Nena

Nena Shaw
Smart Sectors Program

Ex. 6 Personal Privacy (PP)



From: Sharpe, Kristinn <Sharpe.Kristinn@epa.gov>
Sent: Monday, May 4, 2020 9:58 AM
To: Striegel, Megan <Striegel.Megan@epa.gov>; Meadows, Carrie Vicenta <Meadows.CarrieVicenta@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>
Cc: Shaw, Nena <Shaw.Nena@epa.gov>
Subject: RE: need ag FACA TPs for Administrator by 11 a.m.

Hi Megan,

Thank you so much for the quick response! I will ask Nena to raise the invitation issue with Brittany, if she hasn't already.

Thanks again,
Kristinn

From: Striegel, Megan <Striegel.Megan@epa.gov>
Sent: Monday, May 04, 2020 9:55 AM
To: Sharpe, Kristinn <Sharpe.Kristinn@epa.gov>; Meadows, Carrie Vicenta <Meadows.CarrieVicenta@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>
Cc: Shaw, Nena <Shaw.Nena@epa.gov>
Subject: RE: need ag FACA TPs for Administrator by 11 a.m.

Hi Kristinn,

Below are our TP's approved to be used. Since this call is with two large agriculture groups we work with so frequently, can Carrie be added to the call so she's in the loop? If any questions on the FACA are raised on the call she would be able to answer them. Thank you.

FARM, RANCH, AND RURAL COMMUNITIES FEDERAL ADVISORY COMMITTEE

Updated 2/11/2020

- In November of 2019, EPA announced a solicitation for nominees to serve on the Farm, Ranch, and Rural Communities Committee (FRRCC). **Applications were due by December 31, 2019.**
- Established in 2008 pursuant to the Federal Advisory Committee Act, the FRRCC provides independent policy advice, information, and recommendations to EPA's Administrator on a range of environmental issues that are of importance to U.S. agriculture.
- To build a broad and balanced representation of perspectives for the FRRCC, members will be selected from a variety of relevant sectors, including farm groups, rural suppliers, marketers, processors, academia/researchers; state, local, and tribal government; and nongovernmental organizations.
- Specifically, we are looking for approximately 20-30 members to serve 2-3 year terms, and the Committee expects to meet approximately twice a year (typically once in DC, and once in another Region near farmlands).
- **EPA is currently reviewing applications and expects to announce the new Members in Spring of 2020. EPA expects to hold its first meeting with the new committee in the Summer of 2020.**

From: Sharpe, Kristinn <Sharpe.Kristinn@epa.gov>
Sent: Monday, May 4, 2020 8:49 AM
To: Meadows, Carrie Vicenta <Meadows.CarrieVicenta@epa.gov>; Striegel, Megan <Striegel.Megan@epa.gov>; Subramanian, Hema <Subramanian.Hema@epa.gov>
Cc: Shaw, Nena <Shaw.Nena@epa.gov>
Subject: need ag FACA TPs for Administrator by 11 a.m.
Importance: High

Hi Carrie, Megan, and Hema,

I apologize for the late notice, but we have been asked for talking points on the status of the ag FACA implementation for an Administrator call with Farm Bureau and Cattlemen's tomorrow. If you can please send whatever you have (bulleted format is fine) on the ag FACA by 11 a.m. today, that would be super appreciated.

Thank you, thank you!

Kristinn L. Sharpe
Smart Sectors Program Communications Director/
Lead for Agriculture, Cement & Concrete, and
Electronics & Technology
U.S. Environmental Protection Agency
Office: (202) 343-9062

Ex. 6 Personal Privacy (PP)

www.epa.gov/smartsectors



Message

From: Molloy, Jennifer [molloy.jennifer@epa.gov]
Sent: 2/11/2019 12:06:32 PM
To: Subramanian, Hema [Subramanian.Hema@epa.gov]
Subject: RE: Food and Water Watch Petition to Revise the CAFO Rule?

George. If he doesn't get back to you, let me know and I'll pursue. I honestly don't know what's going on with this.

Jenny Molloy
U.S. EPA
Water Permits Division
202.564.1939
molloy.jennifer@epa.gov

From: Subramanian, Hema
Sent: Friday, February 8, 2019 4:19 PM
To: Utting, George <Utting.George@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>
Subject: FW: Food and Water Watch Petition to Revise the CAFO Rule?

Anyone working on this?

From: Thomas Hebert <tom.hebert@bayardridge.com>
Sent: Friday, February 8, 2019 4:07 PM
To: Subramanian, Hema <Subramanian.Hema@epa.gov>
Subject: Food and Water Watch Petition to Revise the CAFO Rule?

Hi Hema,

I was asked recently about where this stood, and I said "I have no idea, but I know someone to ask." Any idea?

"EPA must take further action to fulfill its CWA obligations, and the Agency's 2003 and 2008 rulemaking attempts do not in any way lessen this duty. EPA maintains clear authority to strengthen its approach to CAFO regulation in numerous ways, and has amassed a large volume of new information about CAFO pollution since it put forth the 2001 proposal that largely shaped the current regulations. This petition lays out a regulatory course of action for EPA to better use its authority to control CAFO pollution and further the objectives of the Act."

https://www.biologicaldiversity.org/programs/population_and_sustainability/pdfs/Citizens_CAFO_CWA_Petition.pdf

Have a good weekend.

Tom

Tom Hebert
Bayard Ridge Group LLC
tom.hebert@bayardridge.com

Ex. 6 Personal Privacy (PP)

202-407-9069 (desk)

Message

From: Thomas Hebert [tom.hebert@bayardridge.com]
Sent: 2/8/2019 9:21:01 PM
To: Subramanian, Hema [Subramanian.Hema@epa.gov]
Subject: RE: Food and Water Watch Petition to Revise the CAFO Rule?

Thanks!

From: Subramanian, Hema <Subramanian.Hema@epa.gov>
Sent: Friday, February 8, 2019 4:19 PM
To: Thomas Hebert <tom.hebert@bayardridge.com>
Subject: RE: Food and Water Watch Petition to Revise the CAFO Rule?

I'll check w/my old branch and get back to you

Hema Subramanian
Senior Advisor (Agriculture)
Office of the Administrator
U.S. Environmental Protection Agency
Washington, DC

From: Thomas Hebert <tom.hebert@bayardridge.com>
Sent: Friday, February 8, 2019 4:07 PM
To: Subramanian, Hema <Subramanian.Hema@epa.gov>
Subject: Food and Water Watch Petition to Revise the CAFO Rule?

Hi Hema,

I was asked recently about where this stood, and I said "I have no idea, but I know someone to ask." Any idea?

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https://www.biologicaldiversity.org/programs/population_and_sustainability/pdfs/Citizens_CAFO_CWA_Petition.pdf

Have a good weekend.

Tom

Tom Hebert
Bayard Ridge Group LLC
tom.hebert@bayardridge.com

Ex. 6 Personal Privacy (PP)
202-407-9069 (desk)

Message

From: Meadows, Carrie Vicenta [Meadows.CarrieVicenta@epa.gov]
Sent: 9/3/2020 7:37:33 PM
To: Subramanian, Hema [Subramanian.Hema@epa.gov]; Striegel, Megan [Striegel.Megan@epa.gov]
Subject: FW: CAFO Petition before OW

From: Thomas Hebert <tom.hebert@bayardridge.com>
Sent: Monday, August 17, 2020 10:13 AM
To: Meadows, Carrie Vicenta <Meadows.CarrieVicenta@epa.gov>
Subject: CAFO Petition before OW

Hi Carrie,

Here is the petition: Food and Water Watch et al (2017) is referenced in this story on their website:
<https://www.foodandwaterwatch.org/news/dozens-advocacy-groups-challenge-epa-factory-farm-pollution>. If you Google the topic you will find several versions of this same story.

To my great surprise, this petition is **not** listed on the OW website. (<https://www.epa.gov/aboutepa/petitions-office-water>). Food and Water watch says they filed it, there are dozens of reviews in the legal trade press about it, but it is not on your website? I can find no reference in the press, etc. to this 2017 petition being "withdrawn." I am puzzled.

Best!

Tom

Message

From: Subramanian, Hema [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=65E089600E8B4724A2E85997849BD208-SUBRAMANIAN, HEMA]
Sent: 4/12/2018 9:06:31 PM
To: Letendre, Daisy [letendre.daisy@epa.gov]; Gordon, Stephen [gordon.stephen@epa.gov]
Subject: Notes from Montana Stockgrowers Meeting

Daisy and Stephen, once you review, would you like me to send them to the respective offices for follow ups?

Montana Stockgrowers Association – 4/12 Meeting

Main POCs:

Bryan Mussard, President, [REDACTED] **Ex. 6 Personal Privacy (PP)**

Jim Steinbeisser, 2nd VP, [REDACTED] **Ex. 6 Personal Privacy (PP)**

(Group was accompanied by Scott Yager, NCBA)

Water

CWA/NPDES/State WQ CAFO Regs:

- Complained of excess fines and violations for paperwork issues.
- Request for streamlining paperwork and monitoring burdens where possible under CWA/NPDES CAFO Regs. E.g.,
 - Their forms require repeatedly checking off many boxes for monitoring checklist, could it be a single checkbox for when all monitoring on the list has been completed?
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- Request for EPA to respond to enviro (Food & Water Watch et. al) petition on strengthening CAFO regs, so that it doesn't unnecessarily end up in a suit for failure to respond.

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WOTUS: Praised recent actions.

Air

Forest fires are a significant issue, but can't do controlled burns to manage them. Forest Service referred them to EPA, pointing to air regulations as potentially being the reason. Requested flexibility for short term/emergency allowances of controlled burns.

OECA

NEI: Request to consider dropping CAFOs when NEIs are up for renewal.

Follow ups:

Ex. 5 Deliberative Process (DP)

Thank you,
---Hema.

Hema Subramanian
Acting Special Assistant for Agriculture Policy
Office of the Administrator
U.S. Environmental Protection Agency
Washington, DC
office: (202) 564-5041

Message

From: Ziobro, Joseph [Ziobro.Joseph@epa.gov]
Sent: 5/29/2018 6:01:09 PM
To: Subramanian, Hema [Subramanian.Hema@epa.gov]
Subject: RE: Notes from Montana Stockgrowers Meeting

Ok thanks. And I just saw a note from Ross mentioning that we might discuss follow-up at today's CAFO team meeting.

Joseph Ziobro

U.S. Environmental Protection Agency
Office of Wastewater Management
Washington, DC
Phone: (202) 564-5376
ziobro.joseph@epa.gov

From: Subramanian, Hema
Sent: Tuesday, May 29, 2018 12:30 PM
To: Ziobro, Joseph <Ziobro.Joseph@epa.gov>
Subject: FW: Notes from Montana Stockgrowers Meeting
Importance: High

FYI – yes he still is interested in AADG

Hema Subramanian
Acting Special Assistant for Agriculture Policy
Office of the Administrator
U.S. Environmental Protection Agency
Washington, DC
office: [\(202\) 564-5041](tel:(202)564-5041)

From: Subramanian, Hema
Sent: Tuesday, May 29, 2018 12:25 PM
To: Campbell, Ann <Campbell.Ann@epa.gov>; Wright, Rhonda <Wright.Rhonda@epa.gov>; Perrin, Rebecca <Perrin.Rebecca@epa.gov>; Rise, David <rise.david@epa.gov>
Subject: RE: Notes from Montana Stockgrowers Meeting
Importance: High

Hello all,

Bryan Mussard from the Montana Stockgrowers Association reached back out to me to follow up from their April meeting. They have a summer meeting on June 14th at which he will need to report out about outcomes and followups that have resulted from the meeting here specifically on the water NPDES and controlled burn (interagency/air) issues he raised.

I was wondering if you (or other appropriate contacts) could follow up within a week's time? I am looping in Rebecca Perrin, R8 Ag Advisor and David Rise, R8 NPDES CAFO Coordinator here.

Bryan also really appreciated the welcome he received her for hearing their issues (and cattlemen participation on the AADG), and would also like to extend an invitation to EPA to attend their June 14 meeting in Montana (although he realizes it's short notice). I asked him for further information which I will pass along.

Many thanks,
---Hema.

Hema Subramanian
Acting Special Assistant for Agriculture Policy
Office of the Administrator
U.S. Environmental Protection Agency
Washington, DC
office: (202) 564-5041

From: Subramanian, Hema
Sent: Monday, April 16, 2018 11:03 AM
To: Campbell, Ann <Campbell.Ann@epa.gov>; Wright, Rhonda <Wright.Rhonda@epa.gov>; Branning, Hannah <Branning.Hannah@epa.gov>
Cc: Shiffman, Cari <Shiffman.Cari@epa.gov>
Subject: FW: Notes from Montana Stockgrowers Meeting

Ann, Rhonda, and Hannah,

The Administrator (along with Stephen Gordon – OPEEE, Daisy Letendre – OP Smart Sectors, and I) met with the Montana Stockgrowers Association last Thursday. See notes below, there are some followups particularly for OW (OWM). I can help with any questions, and please let us know if any followups occur.

Many thanks,
---Hema.

Hema Subramanian
Acting Special Assistant for Agriculture Policy
Office of the Administrator
U.S. Environmental Protection Agency
Washington, DC
office: (202) 564-5041

Montana Stockgrowers Association – 4/12 Meeting

Main POCs:

Bryan Mussard, President [Ex. 6 Personal Privacy (PP)]

Jim Steinbeisser, 2nd VP [Ex. 6 Personal Privacy (PP)]

(Group was accompanied by Scott Yager, NCBA)

Water

CWA/NPDES/State WQ CAFO Regs:

- Concerns around excess fines and violations for paperwork issues.
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Forest fires are a significant issue, but can't do controlled burns to manage them. Forest Service referred them to EPA, pointing to air regulations as potentially being the reason. Requested flexibility for short term/emergency allowances of controlled burns.

OECA

NEI: Request to consider dropping CAFOs when NEIs are up for renewal.

Follow ups:

- Sending notes to OW, OAR, OECA.
- OW/OWM:

Ex. 5 Deliberative Process (DP)

Message

From: Perrin, Rebecca [Perrin.Rebecca@epa.gov]
Sent: 5/29/2018 5:37:58 PM
To: Subramanian, Hema [Subramanian.Hema@epa.gov]
Subject: RE: Notes from Montana Stockgrowers Meeting

Unfortunately it looks like OWP at R8 never followed up on this with the Association. I have reached out to the MT DEQ and the Association to try to set up an in person meeting or call this week to complete this action item.

I apologize that my region dropped the ball. What would the role be of the EPA participant for this meeting? Looks like the environmental committee meeting is 1.5 hours meeting.

Rebecca Perrin
Region 8 Agriculture Advisor | Office of the Regional Administrator | USEPA
1595 Wynkoop Street | Denver CO 80202 | DL: 303-312-6311 | FAX: 303-312-6882

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From: Subramanian, Hema
Sent: Tuesday, May 29, 2018 11:24 AM
To: Perrin, Rebecca <Perrin.Rebecca@epa.gov>
Subject: RE: Notes from Montana Stockgrowers Meeting

Sorry I meant you might... not me. (If no one in R8 was able to attend) Up to you though!

Hema Subramanian
Acting Special Assistant for Agriculture Policy
Office of the Administrator
U.S. Environmental Protection Agency
Washington, DC
office: [\(202\) 564-5041](tel:(202)564-5041)

From: Subramanian, Hema
Sent: Tuesday, May 29, 2018 1:10 PM
To: Perrin, Rebecca <Perrin.Rebecca@epa.gov>
Subject: RE: Notes from Montana Stockgrowers Meeting

I may let Nick Peak know as well, since the meeting could be driveable for him.

Hema Subramanian
Acting Special Assistant for Agriculture Policy
Office of the Administrator
U.S. Environmental Protection Agency
Washington, DC
office: [\(202\) 564-5041](tel:(202)564-5041)

From: Subramanian, Hema
Sent: Tuesday, May 29, 2018 12:59 PM
To: Perrin, Rebecca <Perrin.Rebecca@epa.gov>
Subject: RE: Notes from Montana Stockgrowers Meeting

Thanks so much Rebecca! FYI I think this is the meeting he is inviting EPA to (although he hasn't emailed info yet):
<http://mtbeef.org/events/mid-year-meeting/>

Hema Subramanian
Acting Special Assistant for Agriculture Policy
Office of the Administrator
U.S. Environmental Protection Agency
Washington, DC
office: (202) 564-5041

From: Perrin, Rebecca
Sent: Tuesday, May 29, 2018 12:58 PM
To: Subramanian, Hema <Subramanian.Hema@epa.gov>
Subject: RE: Notes from Montana Stockgrowers Meeting

FYI...I was told by the R8 program they would lead the response on this and have been sending follow-up request to find out if it was handled or not for a while now, with no response. I will dig in deeper today to figure out what happened.

Rebecca Perrin
Region 8 Agriculture Advisor | Office of the Regional Administrator | USEPA
1595 Wynkoop Street | Denver CO 80202 | DL: 303-312-6311 | FAX: 303-312-6882

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From: Subramanian, Hema
Sent: Tuesday, May 29, 2018 10:50 AM
To: Campbell, Ann <Campbell.Ann@epa.gov>; Wright, Rhonda <Wright.Rhonda@epa.gov>; Perrin, Rebecca <Perrin.Rebecca@epa.gov>; Rise, David <rise.david@epa.gov>
Subject: RE: Notes from Montana Stockgrowers Meeting

For OW, if someone could get back to Bryan about the NPDES issues he raised below, I can let leadership here know the request was closed. (Perhaps David Rise can do that in Montana, with or without looping in HQ contacts. Some of the questions may be state issues.) FYI the OWM team is aware of his interest in the AADG, so that part should be ok.

Hema Subramanian
Acting Special Assistant for Agriculture Policy
Office of the Administrator
U.S. Environmental Protection Agency
Washington, DC
office: (202) 564-5041

From: Campbell, Ann

Sent: Tuesday, May 29, 2018 12:44 PM

To: Subramanian, Hema <Subramanian.Hema@epa.gov>; Wright, Rhonda <Wright.Rhonda@epa.gov>; Perrin, Rebecca <Perrin.Rebecca@epa.gov>; Rise, David <rise.david@epa.gov>

Subject: RE: Notes from Montana Stockgrowers Meeting

Thanks Hema. Are you looking for responses to all the issues (for us) listed under Water?

Ann Campbell
Chief of Staff (acting)
Office of Water

From: Subramanian, Hema

Sent: Tuesday, May 29, 2018 12:25 PM

To: Campbell, Ann <Campbell.Ann@epa.gov>; Wright, Rhonda <Wright.Rhonda@epa.gov>; Perrin, Rebecca <Perrin.Rebecca@epa.gov>; Rise, David <rise.david@epa.gov>

Subject: RE: Notes from Montana Stockgrowers Meeting

Importance: High

Hello all,

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Many thanks,
---Hema.

Hema Subramanian
Acting Special Assistant for Agriculture Policy
Office of the Administrator
U.S. Environmental Protection Agency
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Cc: Shiffman, Cari <Shiffman.Cari@epa.gov>

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Office of the Administrator
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Ex. 6 Personal Privacy (PP)

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Follow ups:

- Sending notes to OW, OAR, OECA.
- OW/OWM:

Ex. 5 Deliberative Process (DP)

Message

From: Subramanian, Hema [subramanian.hema@epa.gov]
Sent: 5/5/2020 3:58:37 PM
To: Molloy, Jennifer [molloy.jennifer@epa.gov]; Utting, George [Utting.George@epa.gov]; Subramanian, Hema [Subramanian.Hema@epa.gov]
Subject: Conversation with Molloy, Jennifer, Utting, George

Subramanian, Hema 10:47 AM:

Hi guys - sorry to bother, random Q. Do either of you happen to know what happened with the 2017 Food & Water Watch petition re: CAFO NPDES regs?

Subramanian, Hema 10:48 AM:

https://www.foodandwaterwatch.org/sites/default/files/citizens_cafo_cwa_petition.pdf

Utting, George 10:49 AM:

Ex. 5 Deliberative Process (DP)

Subramanian, Hema 10:50 AM:

earlier today? coincidence

Subramanian, Hema 10:50 AM:

Smart Sectors set up a meeting for the Administrator with AFBF & NCBA for today that we got pulled into last minute, and Scott said NCBA was going to ask about whether EPA acted on it

Utting, George 10:51 AM:

No. We received a request because of the Administrator's scheduled meeting. The initial inquiry was whether we could identify the petition that was filed in 2017. It was of course the FWW petition.

Subramanian, Hema 10:51 AM:

Ahhhh.

Subramanian, Hema 10:51 AM:

Yeah that was the same cryptic question I got from Nena Shaw. So I asked Scott.

Subramanian, Hema 10:51 AM:

Ok perfect.

Subramanian, Hema 10:51 AM:

thank you

Utting, George 10:51 AM:

The summary articulates t

Ex. 5 Deliberative Process (DP)

Utting, George 10:53 AM:

You might be able to get a copy from Andrew, Chris, Maria, or Marcus - though I'm not sure if it has been shared with Andrew. Or if it has gone further up the management chain.

Subramanian, Hema 10:53 AM:

Ok! Thank you , no worries, status was likely enough for me for today.

Subramanian, Hema 10:54 AM:

but i'll follow up with them if needed. Thanks as always :)

Utting, George 10:54 AM:

Gre

Utting, George 10:54 AM:

at

Utting, George 10:54 AM:

!

Utting, George 10:55 AM:

Sorry . . . I'll get the hang of this yet, :)

Subramanian, Hema 10:56 AM:

haha!

Message

From: Subramanian, Hema [Subramanian.Hema@epa.gov]
Sent: 9/3/2020 7:40:36 PM
To: Striegel, Megan [Striegel.Megan@epa.gov]; Meadows, Carrie Vicenta [Meadows.CarrieVicenta@epa.gov]

https://www.foodandwaterwatch.org/sites/default/files/citizens_cafo_cwa_petition.pdf

Message

From: Utting, George [Utting.George@epa.gov]
Sent: 3/9/2017 8:30:47 PM
To: Subramanian, Hema [Subramanian.Hema@epa.gov]
CC: Abrams, Nancy [Abrams.Nancy@epa.gov]
Subject: RE: Bring your agenda topics -- Monthly CAFO Program & Compliance Coordinators' Call 2:00 - 3:30 Eastern

Ok to share the link, I suppose. We have not actually received the petition yet, fyi.

George Utting
Water Permits Division (MC-4203M)
U.S. EPA, 1200 Pennsylvania Avenue, NW,
Washington, DC 20460-0001
(202) 564-0744 / Fax (202) 564-6384

From: Subramanian, Hema
Sent: Thursday, March 09, 2017 3:29 PM
To: Utting, George <Utting.George@epa.gov>
Cc: Abrams, Nancy <Abrams.Nancy@epa.gov>
Subject: RE: Bring your agenda topics -- Monthly CAFO Program & Compliance Coordinators' Call 2:00 - 3:30 Eastern

I got that msg and them know this. Didn't discuss, just an FYI with publically available link, as others had seen it in the press already...

Hema Subramanian
Environmental Protection Specialist
U.S. Environmental Protection Agency
Office of Water: Office of Wastewater Management/Water Permits Division/Rural Branch
1200 Pennsylvania Avenue, NW
Mail Code 4203M
Washington, DC 20460
Phone (202) 564-5041
subramanian.hema@epa.gov

From: Utting, George
Sent: Thursday, March 09, 2017 3:27 PM
To: Subramanian, Hema <Subramanian.Hema@epa.gov>
Cc: Abrams, Nancy <Abrams.Nancy@epa.gov>
Subject: RE: Bring your agenda topics -- Monthly CAFO Program & Compliance Coordinators' Call 2:00 - 3:30 Eastern

Ex. 5 Deliberative Process (DP)

George Utting
Water Permits Division (MC-4203M)
U.S. EPA, 1200 Pennsylvania Avenue, NW,
Washington, DC 20460-0001
(202) 564-0744 / Fax (202) 564-6384

From: Subramanian, Hema

Sent: Thursday, March 09, 2017 3:21 PM

To: Galloway, Carol <Galloway.Carol@epa.gov>; Adams, Margery <adams.margery@epa.gov>; Arvizu, Christy <Arvizu.Christy@epa.gov>; Atkinson, Benjamin <atkinson.ben@epa.gov>; Bahr, Ryan <bahr.ryan@epa.gov>; Berman, Michael <berman.michael@epa.gov>; Blanco-Gonzalez, Joel <Blanco-Gonzalez.Joel@epa.gov>; Boisclair, Diane <boisclair.diane@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>; Breedlove, Dan <Breedlove.Dan@epa.gov>; Bukhari, Samir <Bukhari.Samir@epa.gov>; Burdett, Cheryl <burdett.cheryl@epa.gov>; Bush, William <Bush.William@epa.gov>; Campbell, Gwen <Campbell.Gwen@epa.gov>; Chang-Vaughan, Ellen <Chang-Vaughan.Ellen@epa.gov>; Chase, Felicia <chase.felicia@epa.gov>; Coats, Andrea <Coats.Andrea@epa.gov>; Cozad, David <Cozad.David@epa.gov>; Dart, Denny <Dart.Denny@epa.gov>; Davies, Lauris <Davies.Lauris@epa.gov>; Drelich, David <Drelich.David@epa.gov>; Duchovnay, Andrew <Duchovnay.Andrew@epa.gov>; Gable, Kelly <Gable.Kelly@epa.gov>; Greenberg, Ken <Greenberg.Ken@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>; Hamera, Donald <Hamera.Don@epa.gov>; Heinemann, Kristina <Heinemann.Kristina@epa.gov>; Herbert, Rusty <Herbert.Rusty@epa.gov>; Hom, Michael <Hom.Michael@epa.gov>; Huffman, Diane <Huffman.Diane@epa.gov>; Jackson, Julia <Jackson.Julia@epa.gov>; Jann, Stephen <jann.stephen@epa.gov>; Joe, Don <Joe.Don@epa.gov>; Schefski, Melissa <Schefski.Melissa@epa.gov>; Kenknight, Jeff <Kenknight.Jeff@epa.gov>; Kermish, Laurie <Kermish.Laurie@epa.gov>; Kroening, Peg <Kroening.Margaret@epa.gov>; Kuefler, Patrick <kuefler.patrick@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Kwok, Rose <Kwok.Rose@epa.gov>; Lane, Willie <Lane.Willie@epa.gov>; Lister, Chris <Lister.Chris@epa.gov>; Livingston, Peggy <Livingston.Peggy@epa.gov>; Lopez, Jaime <Lopez.Jaime@epa.gov>; Lukowich, Michael <lukowich.michael@epa.gov>; Massey, Michael <Massey.Michael@epa.gov>; McDonald, Scott <mcdonald.scott@epa.gov>; Mikalian, Charles <mikalian.charles@epa.gov>; Mitschele, Becky <Mitschele.Becky@epa.gov>; Modigliani, Justine <Modigliani.Justine@epa.gov>; Moody, Jonathan <moody.jonathan@epa.gov>; Moores, Steven <Moores.Steven@epa.gov>; Morgan, James <Morgan.James@epa.gov>; Mortensen, Ginah <mortensen.ginah@epa.gov>; Ogle, Kimberly <Ogle.Kimberly@epa.gov>; Oviedo, Luis <oviedo.luis@epa.gov>; Peak, Nicholas <Peak.Nicholas@epa.gov>; Plymale, Chris <Plymale.Christopher@epa.gov>; Pollard, Stephen <Pollard.Stephen@epa.gov>; Porter, Donna <Porter.Donna@epa.gov>; Potokar, Steven <Potokar.Steven@epa.gov>; Rogers, Joan <rogers.joan@epa.gov>; Roose, Rebecca <Roose.Rebecca@epa.gov>; Sampath, Sam <Sampath.Sam@epa.gov>; Schwer, Don <Schwer.Don@epa.gov>; Segall, Martha <Segall.Martha@epa.gov>; Senkayi, Abu <Senkayi.Abu@epa.gov>; Silver, Wendy <Silver.Wendy@epa.gov>; Sipe, Diane <Sipe.Diane@epa.gov>; Socha, Julianne <socha.julianne@epa.gov>; Stokely, Peter <Stokely.Peter@epa.gov>; Sullivan, Tim <Sullivan.Tim@epa.gov>; Sutin, Elyana <Sutin.Elyana@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>; Thomas, Lee <Thomas.Lee@epa.gov>; Thompson, Robert <thompson.robertl@epa.gov>; Thuot, Lisa <Thuot.Lisa@epa.gov>; Tipton, Lantz <tipton.lantz@epa.gov>; Urban, Trevor <Urban.Trevor@epa.gov>; Utting, George <Utting.George@epa.gov>; Vanlerberghe, Daren <Vanlerberghe.Daren@epa.gov>; Vantil, Barbara <vantil.barbara@epa.gov>; Vuilleumier, Kevin <vuilleumier.kevin@epa.gov>; Weiler, Eaton <weiler.eaton@epa.gov>; Whitson, Amelia <Whitson.Amelia@epa.gov>; Wills, Carl <Wills.Carl@epa.gov>; Witt, Richard <Witt.Richard@epa.gov>; Zolandz, Mark <Zolandz.Mark@epa.gov>; Boeglin, Michael <Boeglin.Michael@epa.gov>; Vezner, Kris <vezner.kris@epa.gov>; Ibarra, Juan <Ibarra.Juan@epa.gov>; Draper, Seth <Draper.Seth@epa.gov>; Anderson, Kate <Anderson.Kate@epa.gov>; Wetherington, Michele <Wetherington.Michele@epa.gov>; Savino, Kathleen <Savino.Kathleen@epa.gov>; Chan, Janice <Chan.Janice@epa.gov>; Goldstein, Jessica <goldstein.jessica@epa.gov>; Cooper, William F <Cooper.WilliamF@epa.gov>; Cunningham, Caitlin <cunningham.caitlin@epa.gov>; Quigley, Heather <Quigley.Heather@epa.gov>; Mills, Clarissa <mills.clarissa@epa.gov>; Rise, David <rise.david@epa.gov>; Saporita, Chris <Saporita.Chris@epa.gov>; Smith, Brittany <Smith.Brittany@epa.gov>; Arcaya, Alyssa <arcaya.alysa@epa.gov>; Buterbaugh, Kristin <Buterbaugh.Kristin@epa.gov>; Nagrani, Kavita <Nagrani.Kavita@epa.gov>
Cc: Ordonez, Efren <Ordonez.Efren@epa.gov>; Henson, Tucker <Henson.Tucker@epa.gov>; Murdock, Russell

<Murdock.Russell@epa.gov>; Campbell, Rich <Campbell.Rich@epa.gov>; Ziobro, Joseph <Ziobro.Joseph@epa.gov>; Gholson, Greg <Gholson.Greg@epa.gov>; Bandrowicz, Toni <bandrowicz.toni@epa.gov>; Grubb, Christopher <Grubb.Christopher@epa.gov>; Perez, Daniel <Perez.Daniel@epa.gov>; Roberts, Connie <Roberts.Connie@epa.gov>; Jones, Kristin <jones.kristin@epa.gov>; Hodaj, Andi <hodaj.andi@epa.gov>; Restivo, Angela <Restivo.Angela@epa.gov>; Howard, MarkW <Howard.MarkW@epa.gov>; Nina Bonnelycke <nbonnelycke@msn.com>; Clark, Amy <Clark.Amy@epa.gov>; Juarez, Paul <Juarez.Paul@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Smith, DavidW <Smith.DavidW@epa.gov>; O'Lone, Dan <Olone.Dan@epa.gov>; Armor, Suzanne <Armor.Suzanne@epa.gov>; Spejewski, Andrew <Spejewski.Andrew@epa.gov>; Tinger, John <Tinger.John@epa.gov>; Colletti, John <colletti.john@epa.gov>; Hamilton, Denise <Hamilton.Denise@epa.gov>; Houlihan, Damien <houlihan.damien@epa.gov>; Rosenberg, Alex <Rosenberg.Alex@epa.gov>; Abrams, Nancy <Abrams.Nancy@epa.gov>; Johnsey, Paulette <Johnsey.Paulette@epa.gov>; Sherman, Aaron <sherman.aaron@epa.gov>
Subject: RE: Bring your agenda topics -- Monthly CAFO Program & Compliance Coordinators' Call 2:00 - 3:30 Eastern

Food & Water Watch & 34 other orgs petition:

<http://www.foodandwaterwatch.org/news/dozens-advocacy-groups-challenge-epa-factory-farm-pollution>

Hema Subramanian
Environmental Protection Specialist
U.S. Environmental Protection Agency
Office of Water: Office of Wastewater Management/Water Permits Division/Rural Branch
1200 Pennsylvania Avenue, NW
Mail Code 4203M
Washington, DC 20460
Phone (202) 564-5041
subramanian.hema@epa.gov

-----Original Appointment-----

From: Galloway, Carol

Sent: Friday, November 21, 2014 11:15 AM

To: Galloway, Carol; Adams, Margery; Arvizu, Christy; Atkinson, Benjamin; Bahr, Ryan; Berman, Michael; Blanco-Gonzalez, Joel; Boisclair, Diane; Bonnelycke, Nina; Breedlove, Dan; Bukhari, Samir; Burdett, Cheryl; Bush, William; Campbell, Gwen; Chang-Vaughan, Ellen; Chase, Felicia; Coats, Andrea; Cozad, David; Dart, Denny; Davies, Lauris; Drelich, David; Duchovnay, Andrew; Gable, Kelly; Greenberg, Ken; Greenwald, Kathryn; Hamera, Donald; Heinemann, Kristina; Herbert, Rusty; Hom, Michael; Huffman, Diane; Jackson, Julia; Jann, Stephen; Joe, Don; Katz, Melissa; Kenknight, Jeff; Kermish, Laurie; Kroening, Peg; Kuefler, Patrick; Kupchan, Simma; Kwok, Rose; Lane, Willie; Lister, Chris; Livingston, Peggy; Lopez, Jaime; Lukowich, Michael; Massey, Michael; McDonald, Scott; Mikalian, Charles; Mitschele, Becky; Modigliani, Justine; Moody, Jonathan; Moores, Steven; Morgan, James; Mortensen, Ginah; Ogle, Kimberly; Oviedo, Luis; Peak, Nicholas; Plymale, Chris; Pollard, Stephen; Porter, Donna; Potokar, Steven; Rogers, Joan; Roose, Rebecca; Sampath, Sam; Schwer, Don; Segall, Martha; Senkayi, Abu; Silver, Wendy; Sipe, Diane; Socha, Julianne; Stokely, Peter; Sullivan, Tim; Sutin, Elyana; Theis, Joseph; Thomas, Lee; Thompson, Robert; Thuot, Lisa; Tipton, Lantz; Urban, Trevor; Utting, George; Vanlerberghe, Daren; Vantil, Barbara; Vuilleumier, Kevin; Weiler, Eaton; Whitson, Amelia; Wills, Carl; Witt, Richard; Zolandz, Mark; Boeglin, Michael; Vezner, Kris; Ibarra, Juan; Draper, Seth; Anderson, Kate; Wetherington, Michele; Savino, Kathleen; Chan, Janice; Goldstein, Jessica; Cooper, WilliamF; Cunningham, Caitlin; Quigley, Heather; Mills, Clarissa; Rise, David; Saporita, Chris; Smith, Brittany; Arcaya, Alyssa; Buterbaugh, Kristin; Nagrani, Kavita
Cc: Ordonez, Efren; Henson, Tucker; Murdock, Russell; Campbell, Rich; Subramanian, Hema; Ziobro, Joseph; Gholson, Greg; Bandrowicz, Toni; Grubb, Christopher; Perez, Daniel; Roberts, Connie; Jones, Kristin; Hodaj, Andi; Restivo, Angela; Howard, MarkW; Nina Bonnelycke; Clark, Amy; Juarez, Paul; Molloy, Jennifer; Smith, DavidW; O'Lone, Dan; Armor, Suzanne; Spejewski, Andrew; Tinger, John; Colletti, John; Hamilton, Denise; Houlihan, Damien; Rosenberg, Alex; Abrams, Nancy; Johnsey, Paulette; Sherman, Aaron

Subject: Bring your agenda topics -- Monthly CAFO Program & Compliance Coordinators' Call 2:00 - 3:30 Eastern

When: Thursday, March 09, 2017 1:00 PM-2:30 PM (UTC-06:00) Central Time (US & Canada).

Where: Ex. 6 Personal Privacy (PP)

Bring any updates and discussion topics. Talk with you tomorrow.

Message

From: Subramanian, Hema [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=65E089600E8B4724A2E85997849BD208-SUBRAMANIAN, HEMA]
Sent: 4/3/2017 6:33:24 PM
To: Molloy, Jennifer [molloy.jennifer@epa.gov]
CC: Abrams, Nancy [Abrams.Nancy@epa.gov]
Subject: RE: talking point on FWW petition

Thank you!

Hema Subramanian
Environmental Protection Specialist
U.S. Environmental Protection Agency
Office of Water: Office of Wastewater Management/Water Permits Division/Rural Branch
1200 Pennsylvania Avenue, NW
Mail Code 4203M
Washington, DC 20460
Phone (202) 564-5041
subramanian.hema@epa.gov

From: Molloy, Jennifer
Sent: Monday, April 03, 2017 2:31 PM
To: Subramanian, Hema <Subramanian.Hema@epa.gov>
Cc: Abrams, Nancy <Abrams.Nancy@epa.gov>
Subject: FW: talking point on FWW petition

Hema:
Simma and I crafted the following TP on this topic:

Ex. 5 Deliberative Process (DP)

Jenny Molloy
U.S. EPA
Water Permits Division
202.564.1939
molloy.jennifer@epa.gov

From: Kupchan, Simma
Sent: Monday, April 03, 2017 10:53 AM
To: Molloy, Jennifer <molloy.jennifer@epa.gov>
Subject: RE: talking point on FWW petition

Jenny,

Here are a few edits. Thanks for the chance to review.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

From: Molloy, Jennifer
Sent: Monday, April 03, 2017 10:45 AM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: talking point on FWW petition

Simma:
Deborah and Andrew would like a talking point on the Food & Water Watch petition for the AADG meeting on Wednesday. Here's my first shot at it. Could you take a look and provide any necessary edits.

Ex. 5 Deliberative Process (DP)

I'm awaiting confirmation from the IO that the letter actually went out last week. Last I heard (last Monday) it was in Mike's in-box for signature.

Thanks, Jenny

Jenny Molloy
U.S. EPA
Water Permits Division
202.564.1939
molloy.jennifer@epa.gov

Message

From: Utting, George [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E9289B2B07EF42B795E04EA84CFF7344-GUTTING]
Sent: 7/21/2020 2:32:32 PM
To: Molloy, Jennifer [molloy.jennifer@epa.gov]; Bathersfield, Nizanna [Bathersfield.Nizanna@epa.gov]; Lopez-Carbo, Maria [Lopez-Carbo.Maria@epa.gov]; Weiss, Kevin [Weiss.Kevin@epa.gov]
CC: Marcus Zobrist (Zobrist.Marcus@epa.gov) [Zobrist.Marcus@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]
Subject: FW: need TPs for Administrator by 11 a.m.
Attachments: Summary - FWW Petition.docx; citizens_cafo_cwa_petition.pdf

From: Molloy, Jennifer <molloy.jennifer@epa.gov>
Sent: Monday, May 04, 2020 3:22 PM
To: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Cc: Utting, George <Utting.George@epa.gov>
Subject: RE: need TPs for Administrator by 11 a.m.

Here they are. George compiled the summary, probably almost 2 years ago.

Jenny Molloy
U.S. EPA
Water Permits Division
202.564.1939, while in the office

Ex. 6 Personal Privacy (PP)

molloy.jennifer@epa.gov

From: Lopez-Carbo, Maria
Sent: Monday, May 4, 2020 3:18 PM
To: Molloy, Jennifer <molloy.jennifer@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Subject: RE: need TPs for Administrator by 11 a.m.

Thanks Jenny for the heads up.
Sally mentioned this during her transition meeting for us to follow up on.

Do you mind sharing the documents that you shared with Mary below? They dropped off the email chain.

Thanks
Maria

From: Molloy, Jennifer <molloy.jennifer@epa.gov>
Sent: Monday, May 4, 2020 12:00 PM
To: Schollhamer, Mary <Schollhamer.Mary@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Cc: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>
Subject: RE: need TPs for Administrator by 11 a.m.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Jenny Molloy
U.S. EPA
Water Permits Division
202.564.1939, while in the office

Ex. 6 Personal Privacy (PP)

molloy.jennifer@epa.gov

From: Schollhamer, Mary
Sent: Monday, May 4, 2020 11:56 AM
To: Molloy, Jennifer <molloy.jennifer@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Subject: RE: need TPs for Administrator by 11 a.m.

Thanks! This is very helpful. I'll try to figure out why the Administrator wants to talk about this. But, do we have any talking points that we can share publicly? If not, I'll see if they're still needed.

Mary G Schollhamer
Communications Director
Office of Wastewater Management
U.S. Environmental Protection Agency
Office: 202-564-5759

Ex. 6 Personal Privacy (PP)

schollhamer.mary@epa.gov

Office of Wastewater Management: Solutions for Clean Water

From: Molloy, Jennifer <molloy.jennifer@epa.gov>
Sent: Monday, May 04, 2020 11:36 AM
To: Schollhamer, Mary <Schollhamer.Mary@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Subject: FW: need TPs for Administrator by 11 a.m.

WITH the petition...

Jenny Molloy
U.S. EPA
Water Permits Division
202.564.1939, while in the office

Ex. 6 Personal Privacy (PP)

molloy.jennifer@epa.gov

From: Molloy, Jennifer
Sent: Monday, May 4, 2020 11:33 AM
To: Schollhamer, Mary <Schollhamer.Mary@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Subject: RE: need TPs for Administrator by 11 a.m.

Sorry – I hit accidentally hit “send” before I could provide a bit more context. Attached is the petition, and a summary of what it’s asking for, as well as a chronology of our initial actions pertaining to it.

Jenny Molloy
U.S. EPA
Water Permits Division

202.564.1939, while in the office
703.403.3827, while working remotely
molloy.jennifer@epa.gov

From: Molloy, Jennifer
Sent: Monday, May 4, 2020 11:28 AM
To: Schollhamer, Mary <Schollhamer.Mary@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Subject: RE: need TPs for Administrator by 11 a.m.

Yes – Food and Water Watch submitted a petition to EPA on the CAFO program, requesting changes to the program. We had a few meetings with them back when Deborah was still Division Director, but we never formally responded.

Jenny Molloy
U.S. EPA
Water Permits Division
202.564.1939, while in the office

Ex. 6 Personal Privacy (PP)

molloy.jennifer@epa.gov

From: Schollhamer, Mary
Sent: Monday, May 4, 2020 11:20 AM
To: Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>
Subject: FW: need TPs for Administrator by 11 a.m.

Hello – Do you know anything about a 2017 CAFO petition?

Mary G Schollhamer
Communications Director
Office of Wastewater Management
U.S. Environmental Protection Agency
Office: 202-564-5759

Ex. 6 Personal Privacy (PP)

schollhamer.mary@epa.gov

Office of Wastewater Management: Solutions for Clean Water

From: Risley, David <Risley.David@epa.gov>
Sent: Monday, May 04, 2020 10:56 AM
To: Schollhamer, Mary <Schollhamer.Mary@epa.gov>
Subject: Fwd: need TPs for Administrator by 11 a.m.

Here's what I just called about. Deadline is 12:30 if possible.

David Risley
EPA Office of Water Communications
Office 202-343-9177

Ex. 6 Personal Privacy (PP)

Begin forwarded message:

From: "Sharpe, Kristinn" <Sharpe.Kristinn@epa.gov>
Date: May 4, 2020 at 8:55:56 AM EDT

To: "Risley, David" <Risley.David@epa.gov>
Cc: "Shaw, Nena" <Shaw.Nena@epa.gov>
Subject: need TPs for Administrator by 11 a.m.

Hi David,

I apologize for the late notice, but we were just asked for talking points on the status of three topics for an Administrator call with Farm Bureau and Cattlemen's tomorrow. If you can please send whatever you have already prepared (bulleted format is fine) on the NPDES MSGP, PFAS, and the enviro CAFO petition that was filed in 2017 by 11 a.m. today, that would be super appreciated. Let me know if I should reach out to someone else (OGC for that last one, for example)...

Thank you, thank you!
Kristinn

Kristinn L. Sharpe
Smart Sectors Program Communications Director
U.S. Environmental Protection Agency

Office: (202) 343-9062

Ex. 6 Personal Privacy (PP)

www.epa.gov/smartsectors



Message

From: Utting, George [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E9289B2B07EF42B795E04EA84CFF7344-GUTTING]
Sent: 7/21/2020 2:31:41 PM
To: Molloy, Jennifer [molloy.jennifer@epa.gov]; Bathersfield, Nizanna [Bathersfield.Nizanna@epa.gov]; Lopez-Carbo, Maria [Lopez-Carbo.Maria@epa.gov]; Weiss, Kevin [Weiss.Kevin@epa.gov]
CC: Zobrist, Marcus [Zobrist.Marcus@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]
Subject: RE: CAFO Petitions before OW

I will circulate an email we circulated a little while back.

From: Molloy, Jennifer <molloy.jennifer@epa.gov>
Sent: Tuesday, July 21, 2020 10:28 AM
To: Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>
Cc: Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: RE: CAFO Petitions before OW

Just wrapping in Simma and Marcus in case they want to add anything.

We did meet several times with FWW et al on the 2017 petition, **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP)

Like George, I don't really remember the other one.

Jennyh

Jenny Molloy
U.S. EPA
Water Permits Division

Ex. 6 Personal Privacy (PP)

molloy.jennifer@epa.gov

From: Utting, George <Utting.George@epa.gov>
Sent: Tuesday, July 21, 2020 10:19 AM
To: Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>
Cc: Molloy, Jennifer <molloy.jennifer@epa.gov>
Subject: RE: CAFO Petitions before OW

Maria,

We have worked on the 2017 Food & Water Watch petition. In fact, I think we recently responded to an email about it – maybe from the ag advisor's office. I'm not sure why Tom Hebert keeps pushing it, though I'm also surprised it's not on the list of petitions on our website.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

From: Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>
Sent: Tuesday, July 21, 2020 10:13 AM
To: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>
Cc: Utting, George <Utting.George@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>
Subject: RE: CAFO Petitions before OW

Looping in Jenny. I don't know what the status of these are but these would have been assigned to the Industrial Branch since they aren't withdrawal petitions but instead focus on EPA's CAFO program requirements. I was aware of the Food and Water Watch petition [there were some discussions when it came in] but I hadn't heard about the Buffalo River Alliance one.

From: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>
Sent: Tuesday, July 21, 2020 10:02 AM
To: Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>
Cc: Utting, George <Utting.George@epa.gov>
Subject: FW: CAFO Petitions before OW

Good Morning Nizanna and Kevin:

Please see request below from Anna. Do you all have information on these petitions?

Adding George since its CAFO and maybe he has some knowledge on this.

Thank you
Maria

From: Sawyers, Andrew <Sawyers.Andrew@epa.gov>
Sent: Tuesday, July 21, 2020 9:29 AM
To: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Kloss, Christopher <Kloss.Christopher@epa.gov>
Cc: Miller, Wynne <Miller.Wynne@epa.gov>; Sylvester, Francis <Sylvester.Francis@epa.gov>; Sylvester, Francis <Sylvester.Francis@epa.gov>
Subject: FW: CAFO Petitions before OW

Hello Maria and Chris, please see the request from Anna below. Please let me know what you find out – thanks.

From: Wildeman, Anna <wildeman.anna@epa.gov>
Sent: Tuesday, July 21, 2020 9:26 AM
To: Sawyers, Andrew <Sawyers.Andrew@epa.gov>
Cc: Aguirre, Janita <Aguirre.Janita@epa.gov>
Subject: FW: CAFO Petitions before OW

Andrew, can you find out for me if EPA responded to these two petitions? If yes, can you please send me our responses. If no, can you let me know if something is in process? Also see Tom's question below on the FWW petition—should it be on our website?

Thanks,
Anna

From: Thomas Hebert <tom.hebert@bayardridge.com>
Sent: Tuesday, July 21, 2020 9:20 AM
To: Wildeman, Anna <wildeman.anna@epa.gov>
Subject: CAFO Petitions before OW

Hi Anna,

Below are two petitions. The first by Food and Water Watch et al (2017) is referenced in this story on their website: <https://www.foodandwaterwatch.org/news/dozens-advocacy-groups-challenge-epa-factory-farm-pollution>. If you Google the topic you will find several versions of this same story. To my great surprise, the 2017 petition is not listed on the OW website. (<https://www.epa.gov/aboutepa/petitions-office-water>). Food and Water watch says they filed it, there are dozens of reviews in the legal trade press about it, but it is not on your website? I can find no reference in the press, etc. to this 2017 petition being “withdrawn.” I am puzzled.

The second one (2015) is on your website.

I will be interested in hearing what you find out about both of these.

1. <https://buffaloriveralliance.org/resources/Pictures/citizens%20cafo%20cwa%20petition.pdf>
2. https://www.epa.gov/sites/production/files/2016-09/documents/cwa_cafo_ebrotzman_9_2015.pdf

Best!

Tom

Message

From: Utting, George [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E9289B2B07EF42B795E04EA84CFF7344-GUTTING]
Sent: 7/21/2020 6:08:14 PM
To: Zobrist, Marcus [Zobrist.Marcus@epa.gov]; Lopez-Carbo, Maria [Lopez-Carbo.Maria@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]; Bathersfield, Nizanna [Bathersfield.Nizanna@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Weiss, Kevin [Weiss.Kevin@epa.gov]
Subject: RE: CAFO Petitions before OW

Those are great edits. Maria and I are talking right now.

From: Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Sent: Tuesday, July 21, 2020 1:53 PM
To: Utting, George <Utting.George@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>
Subject: RE: CAFO Petitions before OW

Thanks, George. I'm going to suggest a different first bullet under FWW:

Ex. 5 Deliberative Process (DP)

From: Utting, George <Utting.George@epa.gov>
Sent: Tuesday, July 21, 2020 1:45 PM
To: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>
Subject: RE: CAFO Petitions before OW

Adding my edits to Simma's on the 2017 FWW petition. I have edited the first bullet and struck out the third bullet.

Good Morning Anna:

EPA has ~~two~~ distinct website pages regarding petitions. If we recall correctly, the Water Policy ~~branch~~ Staff in OW is responsible for the ~~other~~ petition page at <https://www.epa.gov/aboutepa/petitions-office-water> but we would need to look into the website program area to determine the owner.

The withdrawal petition page is owned and updated by OWM. Because the two petitions listed below are not withdrawal petitions, they were not uploaded to the OWM withdrawal petition website.

Regarding the 2017 FWW petition:

- The EPA team has met with FWW several times regarding this petition. Attached you will find a meeting summary of the March 8, 2017 meeting with issues raised by FWW and our response at the time.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

- Most recently, the team worked with the Ag Advisor to provide a response to FWW regarding their pending petition this topic. We can share that response if you like.

Ex. 5 Deliberative Process (DP)

From: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>

Sent: Tuesday, July 21, 2020 1:36 PM

To: Utting, George <Utting.George@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

Subject: RE: CAFO Petitions before OW

Sorry, I realized that my spacing in the email below was off.

George- can you share the response? Thanks

From: Utting, George <Utting.George@epa.gov>

Sent: Tuesday, July 21, 2020 1:28 PM

To: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

Subject: RE: CAFO Petitions before OW

Note my comments. If you like, I can provide an edit for the 2nd one, but I don't know what the answer to my first comment is – I have not seen anything that reflects ag advisor involvement.

From: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>

Sent: Tuesday, July 21, 2020 1:24 PM

To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

Subject: RE: CAFO Petitions before OW

Thank you Simma.

Andrew just asked for a copy of the response.

Would it be okay to share?

Thanks.

From: Kupchan, Simma <Kupchan.Simma@epa.gov>

Sent: Tuesday, July 21, 2020 12:19 PM

To: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer

<molloy.jennifer@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

Subject: RE: CAFO Petitions before OW

Thanks, all. I proposed a few edits to the response to Anna, in strikethrough/red.

Simma Kupchan
EPA Office of General Counsel
Water Law Office
WJC North Building # 7426Q
202-564-3105

From: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>

Sent: Tuesday, July 21, 2020 11:57 AM

To: Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>

Subject: RE: CAFO Petitions before OW

thank you all.

Marcus- I can reach out to Macara, not a problem.

Thanks.
Maria

From: Utting, George <Utting.George@epa.gov>

Sent: Tuesday, July 21, 2020 11:34 AM

To: Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>

Subject: RE: CAFO Petitions before OW

I have more in the way of question/suggestions rather than specific edits.

First, I am not sure whether or not the Ag Advisor's office has been involved. When I went back to look, I only see that there was an email from the Smart Sectors Communications Director through Mary Schollhamer. I do not recall whether there was actual involvement with the Ag Advisor's office.

Second, with respect to the attachment, it is more than just a meeting summary. It is a summary of the issues raised in the petition and subsequent steps taken to engage with the petitioners.

I've highlighted where both of these issues occur below.

From: Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>

Sent: Tuesday, July 21, 2020 11:23 AM

To: Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>

Subject: RE: CAFO Petitions before OW

Hi,

Suggesting a few additional edits to clarify that EPA has a few different websites focused on petitions.

Good Morning Anna:

EPA has ~~two~~ distinct website pages regarding petitions. If we recall correctly, the Water Policy ~~branch~~ Staff in OW is responsible for the ~~other~~ petition page at <https://www.epa.gov/aboutepa/petitions-office-water> but we would need to look into the website program area to determine the owner.

The withdrawal petition page is owned and updated by OWM. Because the two petitions listed below are not withdrawal petitions, they were not uploaded to the OWM withdrawal petition website.

Regarding the 2017 FWW petition:

- The EPA team has met with FWW several times regarding this petition. Attached you will find a meeting summary of the March 8, 2017 meeting with FWW.

Ex. 5 Deliberative Process (DP)

- Most recently, the team worked with the Ag Advisor to provide a response to FWW regarding their pending petition ~~this topic~~. We can share that response if you like.

Ex. 5 Deliberative Process (DP)

From: Zobrist, Marcus <Zobrist.Marcus@epa.gov>

Sent: Tuesday, July 21, 2020 11:12 AM

To: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>

Subject: RE: CAFO Petitions before OW

From: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>

Sent: Tuesday, July 21, 2020 10:56 AM

To: Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

Cc: Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>

Subject: RE: CAFO Petitions before OW

Draft response below- please feel free to edit. Thanks.

Good Morning Anna:

EPA has two distinct website pages regarding petitions:

1. The withdrawal petition page is owned and updated by OWM.
2. Because the two petitions listed below are not withdrawal petitions, they were not uploaded to the OWM withdrawal petition website.
3. If we recall correctly, the Water Policy branch in OW is responsible for the other petition page but we would need to look into the website program area to determine the owner.

Regarding the 2017 FWW petition:

- The EPA team has met with FWW several times regarding this petition. Attached you will find a meeting summary of the March 8, 2017 meeting with FWW.

Ex. 5 Deliberative Process (DP)

- Most recently, the team worked with the Ag Advisor to provide a response to FWW regarding this topic. We can share that response if you like.

Ex. 5 Deliberative Process (DP)

From: Molloy, Jennifer <molloy.jennifer@epa.gov>

Sent: Tuesday, July 21, 2020 10:28 AM

To: Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

Cc: Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>

Subject: RE: CAFO Petitions before OW

Just wrapping in Simma and Marcus in case they want to add anything.

We did meet several times with FWW et al on the 2017 petition,

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Like George, I don't really remember the other one.

Jennyh

Jenny Molloy

U.S. EPA

Water Permits Division

Ex. 6 Personal Privacy (PP)

molloy.jennifer@epa.gov

From: Utting, George <Utting.George@epa.gov>

Sent: Tuesday, July 21, 2020 10:19 AM

To: Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

Cc: Molloy, Jennifer <molloy.jennifer@epa.gov>

Subject: RE: CAFO Petitions before OW

Maria,

We have worked on the 2017 Food & Water Watch petition. In fact, I think we recently responded to an email about it – maybe from the ag advisor’s office. I’m not sure why Tom Hebert keeps pushing it, though I’m also surprised it’s not on the list of petitions on our website.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

From: Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>

Sent: Tuesday, July 21, 2020 10:13 AM

To: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

Cc: Utting, George <Utting.George@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>

Subject: RE: CAFO Petitions before OW

Looping in Jenny. I don’t know what the status of these are but these would have been assigned to the Industrial Branch since they aren’t withdrawal petitions but instead focus on EPA’s CAFO program requirements. I was aware of the Food and Water Watch petition [there were some discussions when it came in] but I hadn’t heard about the Buffalo River Alliance one.

From: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>

Sent: Tuesday, July 21, 2020 10:02 AM

To: Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

Cc: Utting, George <Utting.George@epa.gov>

Subject: FW: CAFO Petitions before OW

Good Morning Nizanna and Kevin:

Please see request below from Anna. Do you all have information on these petitions?

Adding George since its CAFO and maybe he has some knowledge on this.

Thank you

Maria

From: Sawyers, Andrew <Sawyers.Andrew@epa.gov>

Sent: Tuesday, July 21, 2020 9:29 AM

To: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Kloss, Christopher <Kloss.Christopher@epa.gov>

Cc: Miller, Wynne <Miller.Wynne@epa.gov>; Sylvester, Francis <Sylvester.Francis@epa.gov>; Sylvester, Francis <Sylvester.Francis@epa.gov>

Subject: FW: CAFO Petitions before OW

Hello Maria and Chris, please see the request from Anna below. Please let me know what you find out – thanks.

From: Wildeman, Anna <wildeman.anna@epa.gov>

Sent: Tuesday, July 21, 2020 9:26 AM

To: Sawyers, Andrew <Sawyers.Andrew@epa.gov>

Cc: Aguirre, Janita <Aguirre.Janita@epa.gov>

Subject: FW: CAFO Petitions before OW

Andrew, can you find out for me if EPA responded to these two petitions? If yes, can you please send me our responses. If no, can you let me know if something is in process? Also see Tom's question below on the FWW petition—should it be on our website?

Thanks,

Anna

From: Thomas Hebert <tom.hebert@bayardridge.com>

Sent: Tuesday, July 21, 2020 9:20 AM

To: Wildeman, Anna <wildeman.anna@epa.gov>

Subject: CAFO Petitions before OW

Hi Anna,

Below are two petitions. The first by Food and Water Watch et al (2017) is referenced in this story on their website: <https://www.foodandwaterwatch.org/news/dozens-advocacy-groups-challenge-epa-factory-farm-pollution>. If you Google the topic you will find several versions of this same story. To my great surprise, the 2017 petition is **not** listed on the OW website. (<https://www.epa.gov/aboutepa/petitions-office-water>). Food and Water watch says they filed it, there are dozens of reviews in the legal trade press about it, but it is not on your website? I can find no reference in the press, etc. to this 2017 petition being “withdrawn.” I am puzzled.

The second one (2015) is on your website.

I will be interested in hearing what you find out about both of these.

1. <https://buffaloriveralliance.org/resources/Pictures/citizens%20cafo%20cwa%20petition.pdf>
2. https://www.epa.gov/sites/production/files/2016-09/documents/cwa_cafo_ebrotzman_9_2015.pdf

Best!

Tom

Message

From: Utting, George [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E9289B2B07EF42B795E04EA84CFF7344-GUTTING]
Sent: 2/25/2019 9:24:08 PM
To: Zobrist, Marcus [Zobrist.Marcus@epa.gov]
CC: Molloy, Jennifer [molloy.jennifer@epa.gov]
Subject: Re: Food and Water Watch Petition to Revise the CAFO Rule?

Ok. You milked that for all it was worth. :)

On Feb 25, 2019, at 4:22 PM, Zobrist, Marcus <Zobrist.Marcus@epa.gov> wrote:

Got it. I'm going to MOOOOOOOOOOOOve on from this thought.

From: Molloy, Jennifer
Sent: Monday, February 25, 2019 4:20 PM
To: Utting, George <Utting.George@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Subject: RE: Food and Water Watch Petition to Revise the CAFO Rule?

NOOOOOOOOOO! Not an OST lead...

...for a couple or more reasons, which we could discuss.

Jenny Molloy
U.S. EPA
Water Permits Division
202.564.1939
molloy.jennifer@epa.gov

From: Utting, George
Sent: Monday, February 25, 2019 4:16 PM
To: Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>
Subject: RE: Food and Water Watch Petition to Revise the CAFO Rule?

Ex. 5 Deliberative Process (DP)

Attached is a copy of the petition.

From: Zobrist, Marcus
Sent: Monday, February 25, 2019 3:42 PM
To: Utting, George <Utting.George@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>
Subject: RE: Food and Water Watch Petition to Revise the CAFO Rule?

George,

Quick question: As a petition to revise the CAFO regs, is this an OST EAD lead?

From: Subramanian, Hema
Sent: Monday, February 25, 2019 10:44 AM
To: Utting, George <Utting.George@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>
Subject: RE: Food and Water Watch Petition to Revise the CAFO Rule?

Happy Monday. Was anyone able to get back to Tom about this?

Hema Subramanian
Senior Advisor (Agriculture)
Office of the Administrator
U.S. Environmental Protection Agency
Washington, DC

From: Subramanian, Hema
Sent: Friday, February 8, 2019 4:19 PM
To: Utting, George <Utting.George@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>
Subject: FW: Food and Water Watch Petition to Revise the CAFO Rule?

Anyone working on this?

From: Thomas Hebert <tom.hebert@bayardridge.com>
Sent: Friday, February 8, 2019 4:07 PM
To: Subramanian, Hema <Subramanian.Hema@epa.gov>
Subject: Food and Water Watch Petition to Revise the CAFO Rule?

Hi Hema,

I was asked recently about where this stood, and I said "I have no idea, but I know someone to ask." Any idea?

"EPA must take further action to fulfill its CWA obligations, and the Agency's 2003 and 2008 rulemaking attempts do not in any way lessen this duty. EPA maintains clear authority to strengthen its approach to CAFO regulation in numerous ways, and has amassed a large volume of new information about CAFO pollution since it put forth the 2001 proposal that largely shaped the current regulations. This petition lays out a regulatory course of action for EPA to better use its authority to control CAFO pollution and further the objectives of the Act."

https://www.biologicaldiversity.org/programs/population_and_sustainability/pdfs/Citizens_CAFO_CWA_Petition.pdf

Have a good weekend.

Tom

Tom Hebert
Bayard Ridge Group LLC
tom.hebert@bayardridge.com

Ex. 6 Personal Privacy (PP)

202-407-9069 (desk)

To: Marcus Zobrist (Zobrist.Marcus@epa.gov)[Zobrist.Marcus@epa.gov]
From: Utting, George/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E9289B2B07EF42B795E04EA84CFF7344-GUTTING]
Sent: Thur 11/19/2020 10:09:10 PM (UTC)
Subject: FW: CAFO petitions under review

fyi

From: Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>
Sent: Thursday, November 19, 2020 4:55 PM
To: Utting, George <Utting.George@epa.gov>
Subject: RE: CAFO petitions under review

Hi George,
Thanks for sharing your summary. I have not been involved in the 2015 and 2017 petitions, to date, so I don't have any comments at this time.

Kathy

From: Utting, George <Utting.George@epa.gov>
Sent: Thursday, November 19, 2020 1:44 PM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Cc: Shriner, Paul <Shriner.Paul@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>
Subject: CAFO petitions under review

As you may know, EPA received two petitions to revise the CAFO regulations, in 2015 and 2017. We have been asked by Anna Wildeman to

Ex. 5 Deliberative Process (DP)

 In order to better understand the scope of the petitions and the commitment of resources that would be necessary to respond to them, I am sharing two draft documents. One is a set of talking points for Andrew and the other is an appendix that charts out the issues raised in the petitions.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Paul and Kathy: I think the draft talking points and attachment are at a point where you might find them useful. I am fully aware that you may have other perspectives that are not reflected in these drafts. Please feel free to comment on them.

I am also attaching copies of the original petitions.

Message

From: Utting, George [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E9289B2B07EF42B795E04EA84CFF7344-GUTTING]
Sent: 12/2/2020 8:36:13 PM
To: Molloy, Jennifer [molloy.jennifer@epa.gov]; Zobrist, Marcus [Zobrist.Marcus@epa.gov]
Subject: RE: cafo petition appendix

Ex. 5 Deliberative Process (DP)

From: Molloy, Jennifer <molloy.jennifer@epa.gov>
Sent: Wednesday, December 02, 2020 3:28 PM
To: Utting, George <Utting.George@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Subject: RE: cafo petition appendix

Ex. 5 Deliberative Process (DP)

Jenny Molloy
U.S. EPA
Water Permits Division

Ex. 6 Personal Privacy (PP)

molloy.jennifer@epa.gov

From: Utting, George <Utting.George@epa.gov>
Sent: Wednesday, December 2, 2020 3:20 PM
To: Molloy, Jennifer <molloy.jennifer@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Subject: RE: cafo petition appendix

Ex. 5 Deliberative Process (DP)

From: Molloy, Jennifer <molloy.jennifer@epa.gov>
Sent: Wednesday, December 02, 2020 3:01 PM
To: Utting, George <Utting.George@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Subject: RE: cafo petition appendix

Ex. 5 Deliberative Process (DP)

Jenny Molloy
U.S. EPA
Water Permits Division

Ex. 6 Personal Privacy (PP)

molloy.jennifer@epa.gov

From: Utting, George <Utting.George@epa.gov>
Sent: Wednesday, December 2, 2020 2:57 PM
To: Molloy, Jennifer <molloy.jennifer@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Subject: RE: cafo petition appendix

Thanks, Jenny. I just looked it over. I edited the original down last night, but I will go through your edits. I'll share the next version with you.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

From: Molloy, Jennifer <molloy.jennifer@epa.gov>
Sent: Wednesday, December 02, 2020 2:46 PM
To: Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Cc: Utting, George <Utting.George@epa.gov>
Subject: RE: cafo petition appendix

Thanks for the chance to review. Suggestions on the attached. I think George did a great job of framing out the issues raised in the petition. There's obviously a fine line to walk in the last column (comments) depending on the audience. Since the first audience is Anna, there should probably be an AnnaVersion, though I suspect we may also need to have a NextAAVersion as well. At any rate, I will leave it to the 2 of you to decide how to thread the needle on this version.

Jenny Molloy
U.S. EPA
Water Permits Division

Ex. 6 Personal Privacy (PP)

molloy.jennifer@epa.gov

From: Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Sent: Wednesday, December 2, 2020 12:55 PM
To: Molloy, Jennifer <molloy.jennifer@epa.gov>
Subject: FW: cafo petition appendix

Jenny,

Any comments on this – this will be shared with Anna,

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

From: Utting, George
Sent: Tuesday, December 01, 2020 5:50 PM
To: Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Subject: cafo petition appendix

Ok I took a stab and shortened it by 3 pages. This version is abridged (but cleaner in places). Anything more is less. :)

Have a nice evening!

Message

From: Utting, George [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E9289B2B07EF42B795E04EA84CFF7344-GUTTING]
Sent: 11/19/2020 8:35:45 PM
To: Kupchan, Simma [Kupchan.Simma@epa.gov]
CC: Marcus Zobrist (Zobrist.Marcus@epa.gov) [Zobrist.Marcus@epa.gov]
Subject: RE: CAFO petitions under review

Thanks, Simma.

From: Kupchan, Simma <Kupchan.Simma@epa.gov>
Sent: Thursday, November 19, 2020 3:34 PM
To: Utting, George <Utting.George@epa.gov>
Subject: RE: CAFO petitions under review

If you make Paul's point,

Ex. 5 Deliberative Process (DP)

Simma Kupchan
EPA Office of General Counsel
Water Law Office
WJC North Building # 7426Q
202-564-3105

From: Utting, George <Utting.George@epa.gov>
Sent: Thursday, November 19, 2020 3:27 PM
To: Shriner, Paul <Shriner.Paul@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Cc: Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>
Subject: RE: CAFO petitions under review

Thanks, Paul. I will add those points.

Ex. 5 Deliberative Process (DP)

From: Shriner, Paul <Shriner.Paul@epa.gov>
Sent: Thursday, November 19, 2020 2:17 PM
To: Utting, George <Utting.George@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Cc: Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>
Subject: RE: CAFO petitions under review

George, good summary and at a glance I see nothing major in your materials that I disagree with. I would add to the

Ex. 5 Deliberative Process (DP)

Cheers,
Paul

From: Utting, George <Utting.George@epa.gov>

Sent: Thursday, November 19, 2020 1:44 PM

To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>

Cc: Shriner, Paul <Shriner.Paul@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>

Subject: CAFO petitions under review

As you may know, EPA received two petitions to revise the CAFO regulations, in 2015 and 2017. We have been asked by Anna Wildeman to **Ex. 5 Deliberative Process (DP)** In order to better understand the scope of the petitions and the commitment of resources that would be necessary to respond to them, I am sharing two draft documents. One is a set of talking points for Andrew and the other is an appendix that charts out the issues raised in the petitions. **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP)

Paul and Kathy: I think the draft talking points and attachment are at a point where you might find them useful. I am fully aware that you may have other perspectives that are not reflected in these drafts. Please feel free to comment on them.

I am also attaching copies of the original petitions.

Message

From: Utting, George [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E9289B2B07EF42B795E04EA84CFF7344-GUTTING]
Sent: 12/2/2020 5:58:09 PM
To: Zobrist, Marcus [Zobrist.Marcus@epa.gov]
Subject: RE: cafo petition appendix

It would be a courtesy. I would share whatever we are sending up the chain.

From: Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Sent: Wednesday, December 02, 2020 12:57 PM
To: Utting, George <Utting.George@epa.gov>
Subject: RE: cafo petition appendix

Should this go back to Simma and Paul? I'm thinking no, if all you did was condense but it may be a courtesy to do so.

From: Utting, George
Sent: Tuesday, December 01, 2020 5:50 PM
To: Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Subject: cafo petition appendix

Ok I took a stab and shortened it by 3 pages. This version is abridged (but cleaner in places). Anything more is less. :)

Have a nice evening!

Message

From: Utting, George [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E9289B2B07EF42B795E04EA84CFF7344-GUTTING]
Sent: 2/22/2018 10:29:58 PM
To: Brennan, Ross [Brennan.Ross@epa.gov]
Subject: Re: Andrew - elaboration on one of Rural Branch's weekly report bullets

Thanks. You might want to invite him to participate in one the meetings at some point. Deborah seemed to suggest at one point that they might have an [occasional ??] meeting with Andrew.

On Feb 22, 2018, at 5:25 PM, Brennan, Ross <Brennan.Ross@epa.gov> wrote:

FYI

Ross Brennan
Acting Chief, Rural Branch
EPA Office of Wastewater Management
(202) 564-3248

From: Brennan, Ross
Sent: Thursday, February 22, 2018 5:23 PM
To: Sawyers, Andrew <Sawyers.Andrew@epa.gov>
Cc: Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Subject: Andrew - elaboration on one of Rural Branch's weekly report bullets

Andrew,

Here's a bit more information in response to your question about the Food and Water Watch call mentioned in the Rural Branch highlights.

As a result of the March 2017 petition we received from Food and Water Watch and other environmental groups seeking changes to the CAFO regulations, we agreed to attend occasional calls to hear their concerns about specific implementation issues. For next week's call (the second one they've requested) they'd like to talk to us about water quality and health-related issues they're seeing with regard to large vertical integrators in places like the Eastern Shore. They understand that we are only in listening mode but they appreciate a chance to be heard. We include OECA since they are talking about on-the-ground issues that might have an enforcement angle. Will pass along to you anything interesting that comes from the call.

Ross Brennan
Acting Chief, Rural Branch
EPA Office of Wastewater Management
(202) 564-3248

From: Farris, Erika D.
Sent: Thursday, February 22, 2018 2:30 PM
To: Brennan, Ross <Brennan.Ross@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting,

George <Utting.George@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>

Subject: RE: Rural Branch highlights for Andrew

Hi – Andrew was interested in a bit more info about this Rural Branch highlight. Could you please shoot him an email with some more details?

- Next Tuesday, February 27, Food and Water Watch and other environmental groups will meet with WPD members by conference call to discuss their environmental concerns with CAFOs. OECA and OGC staff are attending as well. Final agenda is TBD. (Brennan, Molloy, Utting, Bonnelycke)

From: Brennan, Ross

Sent: Wednesday, February 21, 2018 2:24 PM

To: Farris, Erika D. <Farris.Erika@epa.gov>; Thomas, Deborah R. <thomas.deborahr@epa.gov>

Cc: Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>; Chan, Jennifer <Chan.Jennifer@epa.gov>; Chumble, Prasad <Chumble.Prasad@epa.gov>; Jones, Kristin <jones.kristin@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Ziobro, Joseph <Ziobro.Joseph@epa.gov>

Subject: Rural Branch highlights for Andrew

Here you go, Erika and Deborah. (Welcome, Deborah – looking forward to meeting you!)

- <!--[if !supportLists]--><!--[endif]-->Next Tuesday, February 27, Food and Water Watch and other environmental groups will meet with WPD members by conference call to discuss their environmental concerns with CAFOs. OECA and OGC staff are attending as well. Final agenda is TBD. (Brennan, Molloy, Utting, Bonnelycke)
- <!--[if !supportLists]--><!--[endif]-->Rural Branch members are attending the Aquaculture America 2018 conference this week, including participating in a “federal town hall” panel discussion with other members of the federal Interagency Workgroup on Aquaculture (IWG-A). (Molloy, Jones)

Ross Brennan

Acting Chief, Rural Branch

EPA Office of Wastewater Management

(202) 564-3248

Message

From: Utting, George [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E9289B2B07EF42B795E04EA84CFF7344-GUTTING]
Sent: 12/1/2020 10:49:49 PM
To: Marcus Zobrist (Zobrist.Marcus@epa.gov) [Zobrist.Marcus@epa.gov]
Subject: cafo petition appendix
Attachments: Appendix A for Petitions to Revise CAFO Regulations short version.docx

Ok I took a stab and shortened it by 3 pages. This version is abridged (but cleaner in places). Anything more is less. :)

Have a nice evening!

Message

From: Utting, George [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E9289B2B07EF42B795E04EA84CFF7344-GUTTING]
Sent: 11/10/2020 7:07:49 PM
To: Zobrist, Marcus [Zobrist.Marcus@epa.gov]
Subject: RE: Outstanding Petitions

Ex. 5 Deliberative Process (DP)

From: Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Sent: Tuesday, November 10, 2020 1:52 PM
To: Utting, George <Utting.George@epa.gov>
Subject: FW: Outstanding Petitions

These are the petitions....

From: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>
Sent: Tuesday, November 10, 2020 1:27 PM
To: Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Kloss, Christopher <Kloss.Christopher@epa.gov>
Cc: Chan, Jennifer <Chan.Jennifer@epa.gov>
Subject: RE: Outstanding Petitions

Hi Marcus:
Adding a few more items in addition to the files:

1. Our response to Anna back in the summer:
Hello Anna:

Regarding the 2017 FWW petition:

- The EPA team met with FWW several times regarding this petition. Attached please find a summary of issues raised by FWW and our responses at the time. The petition is still pending. OWM currently is not actively working on it.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

The *withdrawal petition* page is owned and updated by OWM. Because the two petitions listed below are not withdrawal petitions, they were not uploaded to the OWM withdrawal petition website. The regulatory petition page listed below <https://www.epa.gov/aboutepa/petitions-office-water> belongs to OPA.

From: Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Sent: Tuesday, November 10, 2020 11:59 AM
To: Kloss, Christopher <Kloss.Christopher@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>
Cc: Chan, Jennifer <Chan.Jennifer@epa.gov>
Subject: RE: Outstanding Petitions

Could someone forward me the attached petitions – not sure what is being referred to.

From: Kloss, Christopher <Kloss.Christopher@epa.gov>
Sent: Tuesday, November 10, 2020 11:15 AM
To: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Cc: Chan, Jennifer <Chan.Jennifer@epa.gov>
Subject: RE: Outstanding Petitions

Thanks Maria – I didn't connect the dots on this. I can forward George's initial assessment to Andrew for context unless there is other info that we should provide.

From: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>
Sent: Tuesday, November 10, 2020 11:07 AM
To: Kloss, Christopher <Kloss.Christopher@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Cc: Chan, Jennifer <Chan.Jennifer@epa.gov>
Subject: RE: Outstanding Petitions

Hi Chris- these are the petitions that came in a week or so ago and Marcus/George/Jenny were contacted by OST.

Ex. 5 Deliberative Process (DP)

Thanks.
Maria

From: Kloss, Christopher <Kloss.Christopher@epa.gov>
Sent: Tuesday, November 10, 2020 10:52 AM
To: Weiss, Kevin <Weiss.Kevin@epa.gov>
Cc: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Chan, Jennifer <Chan.Jennifer@epa.gov>
Subject: FW: Outstanding Petitions

Kevin,

Please see Andrew's email below. Checking to see if you have any awareness – I do not have any specific information.
Thanks.

Chris Kloss
Water Permits Division
US EPA Office of Water
202.564.1438 (o)
Ex. 6 Personal Privacy (PP)

From: Sawyers, Andrew <Sawyers.Andrew@epa.gov>
Sent: Tuesday, November 10, 2020 10:42 AM
To: Kloss, Christopher <Kloss.Christopher@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Miller, Wynne <Miller.Wynne@epa.gov>
Subject: FW: Outstanding Petitions

Chris, do you have any intelligence on the following? I need it before I call Anna.

Thanks

From: Wildeman, Anna <wildeman.anna@epa.gov>
Sent: Tuesday, November 10, 2020 7:46 AM
To: Sawyers, Andrew <Sawyers.Andrew@epa.gov>
Subject: Outstanding Petitions

Andrew, please give me a call about the attached petitions.

Thanks,

Anna

Anna Wildeman
Principal Deputy Assistant Administrator
Office of Water
Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460
202-564-5700
Wildeman.Anna@epa.gov

Message

From: Utting, George [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E9289B2B07EF42B795E04EA84CFF7344-GUTTING]
Sent: 7/10/2018 6:27:45 PM
To: Ross Brennan [Brennan.Ross@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]
Subject: RE: Brfg document for Sally on FWW petition
Attachments: Summary - FWW Petition _ gu.docx

Sorry guys . . . use this draft.

From: Utting, George
Sent: Tuesday, July 10, 2018 2:23 PM
To: Ross Brennan <Brennan.Ross@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: Brfg document for Sally on FWW petition

For tomorrow's briefing for Sally on the petition.

Ross did the main document. I added the bullets on our thinking about each of the items for which FWW is requesting relief.

Let me know what you think .

Message

From: Utting, George [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E9289B2B07EF42B795E04EA84CFF7344-GUTTING]
Sent: 7/10/2018 6:23:31 PM
To: Ross Brennan [Brennan.Ross@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]
Subject: Brfg document for Sally on FWW petition
Attachments: Summary - FWW Petition _ gu.docx

For tomorrow's briefing for Sally on the petition.

Ross did the main document. I added the bullets on our thinking about each of the items for which FWW is requesting relief.

Let me know what you think .

Appointment

From: Utting, George [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E9289B2B07EF42B795E04EA84CFF7344-GUTTING]
Sent: 11/17/2020 3:50:00 PM
To: Marcus Zobrist (Zobrist.Marcus@epa.gov) [Zobrist.Marcus@epa.gov]; Bathersfield, Nizanna [Bathersfield.Nizanna@epa.gov]
Subject: FW: CAFO petition
Location: Skype Meeting
Start: 11/17/2020 8:30:00 PM
End: 11/17/2020 9:00:00 PM
Show Time As: Tentative

Simma sent me an invite for a call today on the petitions. In case either of you are available.

-----Original Appointment-----

From: Kupchan, Simma <Kupchan.Simma@epa.gov>
Sent: Tuesday, November 17, 2020 9:39 AM
To: Kupchan, Simma; Utting, George
Subject: CAFO petition
When: Tuesday, November 17, 2020 3:30 PM-4:00 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Skype Meeting

Join Skype Meeting

Trouble Joining? [Try Skype Web App](#)

Join by phone

Toll number:

Ex. 6 Personal Privacy (PP)

English (United States)

[Find a local number](#)

Conference ID: **Ex. 6 Personal Privacy (PP)**

[Forgot your dial-in PIN?](#) [Help](#)

Appointment

From: Utting, George [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E9289B2B07EF42B795E04EA84CFF7344-GUTTING]
Sent: 11/17/2020 2:47:40 PM
To: Kupchan, Simma [Kupchan.Simma@epa.gov]
Subject: Accepted: CAFO petition
Location: Skype Meeting
Start: 11/17/2020 8:30:00 PM
End: 11/17/2020 9:00:00 PM
Show Time As: Busy

Message

From: Utting, George [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E9289B2B07EF42B795E04EA84CFF7344-GUTTING]
Sent: 12/10/2020 9:09:54 PM
To: Marcus Zobrist (Zobrist.Marcus@epa.gov) [Zobrist.Marcus@epa.gov]
Subject: RE: Appendix A for the briefing document on the CAFO petitions (revised to address comments)

Wrong attachment. I will resend.

From: Utting, George
Sent: Thursday, December 10, 2020 4:02 PM
To: Marcus Zobrist (Zobrist.Marcus@epa.gov) <Zobrist.Marcus@epa.gov>
Subject: Appendix A for the briefing document on the CAFO petitions (revised to address comments)

The attached document is Appendix A for the briefing document on the CAFO petitions.

The table in Appendix A is intended to be a

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

The table provides a summary of each of the issues presented in the F&WW petition, the offices (OGC, OST, OWM, OECA) most likely to play a key role in the response, some regulatory context, and some other considerations that would factor into a response.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Message

From: Utting, George [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E9289B2B07EF42B795E04EA84CFF7344-GUTTING]
Sent: 11/20/2020 4:03:21 PM
To: Zobrist, Marcus [Zobrist.Marcus@epa.gov]
Subject: Re: CAFO petitions under review

Ex. 5 Deliberative Process (DP)

Sent from my iPhone

On Nov 20, 2020, at 9:46 AM, Zobrist, Marcus <Zobrist.Marcus@epa.gov> wrote:

Ex. 5 Deliberative Process (DP)

From: Utting, George <Utting.George@epa.gov>
Sent: Thursday, November 19, 2020 5:58 PM
To: Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Subject: FW: CAFO petitions under review

Ex. 5 Deliberative Process (DP)

From: Shriner, Paul <Shriner.Paul@epa.gov>
Sent: Thursday, November 19, 2020 5:46 PM
To: Utting, George <Utting.George@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>
Cc: Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>
Subject: RE: CAFO petitions under review

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

From: Utting, George <Utting.George@epa.gov>

Sent: Thursday, November 19, 2020 3:27 PM

To: Shriner, Paul <Shriner.Paul@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>

Cc: Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>

Subject: RE: CAFO petitions under review

Ex. 5 Deliberative Process (DP)

From: Shriner, Paul <Shriner.Paul@epa.gov>

Sent: Thursday, November 19, 2020 2:17 PM

To: Utting, George <Utting.George@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>

Cc: Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>

Subject: RE: CAFO petitions under review

George, good summary and at a glance I see nothing major in your materials that I disagree with. I

Ex. 5 Deliberative Process (DP)

Cheers,
Paul

From: Utting, George <Utting.George@epa.gov>

Sent: Thursday, November 19, 2020 1:44 PM

To: Kupchan, Simma <Kupchan.Simma@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>

Cc: Shriner, Paul <Shriner.Paul@epa.gov>; Greenwald, Kathryn <Greenwald.Kathryn@epa.gov>

Subject: CAFO petitions under review

As you may know, EPA received two petitions to revise the CAFO regulations, in 2015 and 2017. We have been asked by Anna Wildeman to **Ex. 5 Deliberative Process (DP)**. In order to better understand the scope of the petitions and the commitment of resources that would be necessary to respond to them, I am sharing two draft documents. One is a set of talking points for Andrew and the other is an appendix that charts out the issues raised in the petitions. **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP)

Paul and Kathy: I think the draft talking points and attachment are at a point where you might find them useful. I am fully aware that you may have other perspectives that are not reflected in these drafts. Please feel free to comment on them.

I am also attaching copies of the original petitions.

Message

From: Zobrist, Marcus [Zobrist.Marcus@epa.gov]
Sent: 7/21/2020 3:28:50 PM
To: Bathersfield, Nizanna [Bathersfield.Nizanna@epa.gov]; Lopez-Carbo, Maria [Lopez-Carbo.Maria@epa.gov]; Molloy, Jennifer [molloy.jennifer@epa.gov]; Utting, George [Utting.George@epa.gov]; Weiss, Kevin [Weiss.Kevin@epa.gov]
CC: Kupchan, Simma [Kupchan.Simma@epa.gov]
Subject: RE: CAFO Petitions before OW

I like Nizanna's edits. Should we check with Macara in the WPS to ask why the petition hasn't been included on their list? It seems that that is the question that Tom is asking, or that Anna is asking on Tom's behalf. Maria - I can do that if you like.

All:

Can we provide what the Ag Advisor's response is regarding FWW petition? That presumably is the status update Anna is asking for. I'm not sure we need to describe the FWW petition – that seems beyond the question asked. It seems sufficient to just reply as to why it is not listed on the WPS page, and the status of any response. The FWW petition is also a petition to revise the CAFO regs – should we include OST in this in case they have been doing something with respect to that portion?

From: Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>
Sent: Tuesday, July 21, 2020 11:23 AM
To: Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>
Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: RE: CAFO Petitions before OW

Hi,
Suggesting a few additional edits to clarify that EPA has a few different websites focused on petitions.

Good Morning Anna:

EPA has ~~two~~ distinct website pages regarding petitions. If we recall correctly, the Water Policy ~~branch~~ Staff in OW is responsible for the ~~other~~ petition page at <https://www.epa.gov/aboutepa/petitions-office-water> but we would need to look into the website program area to determine the owner.

The withdrawal petition page is owned and updated by OWM. Because the two petitions listed below are not withdrawal petitions, they were not uploaded to the OWM withdrawal petition website.

Regarding the 2017 FWW petition:

- The EPA team has met with FWW several times regarding this petition. Attached you will find a meeting summary of the March 8, 2017 meeting with FWW.

Ex. 5 Deliberative Process (DP)

- Most recently, the team worked with the Ag Advisor to provide a response to FWW regarding this topic. We can share that response if you like.

Ex. 5 Deliberative Process (DP)

From: Zobrist, Marcus <Zobrist.Marcus@epa.gov>

Sent: Tuesday, July 21, 2020 11:12 AM

To: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

Cc: Kupchan, Simma <Kupchan.Simma@epa.gov>

Subject: RE: CAFO Petitions before OW

From: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>

Sent: Tuesday, July 21, 2020 10:56 AM

To: Molloy, Jennifer <molloy.jennifer@epa.gov>; Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

Cc: Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>

Subject: RE: CAFO Petitions before OW

Draft response below- please feel free to edit. Thanks.

Good Morning Anna:

EPA has two distinct website pages regarding petitions:

1. The withdrawal petition page is owned and updated by OWM.
2. Because the two petitions listed below are not withdrawal petitions, they were not uploaded to the OWM withdrawal petition website.
3. If we recall correctly, the Water Policy branch in OW is responsible for the other petition page but we would need to look into the website program area to determine the owner.

Regarding the 2017 FWW petition:

- The EPA team has met with FWW several times regarding this petition. Attached you will find a meeting summary of the March 8, 2017 meeting with FWW.

Ex. 5 Deliberative Process (DP)

- Most recently, the team worked with the Ag Advisor to provide a response to FWW regarding this topic. We can share that response if you like.

Ex. 5 Deliberative Process (DP)

From: Molloy, Jennifer <molloy.jennifer@epa.gov>

Sent: Tuesday, July 21, 2020 10:28 AM

To: Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Lopez-Carbo,

Maria <Lopez-Carbo.Maria@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

Cc: Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>

Subject: RE: CAFO Petitions before OW

Just wrapping in Simma and Marcus in case they want to add anything.

We did meet several times with FWW et al on the 2017 petition,

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

Like George, I don't really remember the other one.

Jennyh

Jenny Molloy

U.S. EPA

Water Permits Division

Ex. 6 Personal Privacy (PP)

molloy.jennifer@epa.gov

From: Utting, George <Utting.George@epa.gov>

Sent: Tuesday, July 21, 2020 10:19 AM

To: Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

Cc: Molloy, Jennifer <molloy.jennifer@epa.gov>

Subject: RE: CAFO Petitions before OW

Maria,

We have worked on the 2017 Food & Water Watch petition. In fact, I think we recently responded to an email about it – maybe from the ag advisor's office. I'm not sure why Tom Hebert keeps pushing it, though I'm also surprised it's not on the list of petitions on our website.

Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

From: Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>

Sent: Tuesday, July 21, 2020 10:13 AM

To: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

Cc: Utting, George <Utting.George@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>

Subject: RE: CAFO Petitions before OW

Looping in Jenny. I don't know what the status of these are but these would have been assigned to the Industrial Branch since they aren't withdrawal petitions but instead focus on EPA's CAFO program requirements. I was aware of the Food and Water Watch petition [there were some discussions when it came in] but I hadn't heard about the Buffalo River Alliance one.

From: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>

Sent: Tuesday, July 21, 2020 10:02 AM

To: Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

Cc: Utting, George <Utting.George@epa.gov>

Subject: FW: CAFO Petitions before OW

Good Morning Nizanna and Kevin:

Please see request below from Anna. Do you all have information on these petitions?

Adding George since its CAFO and maybe he has some knowledge on this.

Thank you

Maria

From: Sawyers, Andrew <Sawyers.Andrew@epa.gov>

Sent: Tuesday, July 21, 2020 9:29 AM

To: Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Kloss, Christopher <Kloss.Christopher@epa.gov>

Cc: Miller, Wynne <Miller.Wynne@epa.gov>; Sylvester, Francis <Sylvester.Francis@epa.gov>; Sylvester, Francis <Sylvester.Francis@epa.gov>

Subject: FW: CAFO Petitions before OW

Hello Maria and Chris, please see the request from Anna below. Please let me know what you find out – thanks.

From: Wildeman, Anna <wildeman.anna@epa.gov>

Sent: Tuesday, July 21, 2020 9:26 AM

To: Sawyers, Andrew <Sawyers.Andrew@epa.gov>

Cc: Aguirre, Janita <Aguirre.Janita@epa.gov>

Subject: FW: CAFO Petitions before OW

Andrew, can you find out for me if EPA responded to these two petitions? If yes, can you please send me our responses. If no, can you let me know if something is in process? Also see Tom's question below on the FWW petition—should it be on our website?

Thanks,

Anna

From: Thomas Hebert <tom.hebert@bayardridge.com>

Sent: Tuesday, July 21, 2020 9:20 AM

To: Wildeman, Anna <wildeman.anna@epa.gov>

Subject: CAFO Petitions before OW

Hi Anna,

Below are two petitions. The first by Food and Water Watch et al (2017) is referenced in this story on their website: <https://www.foodandwaterwatch.org/news/dozens-advocacy-groups-challenge-epa-factory-farm-pollution>. If you Google the topic you will find several versions of this same story. To my great surprise, the 2017 petition is **not** listed on the OW website. (<https://www.epa.gov/aboutepa/petitions-office-water>). Food and Water watch says they filed it, there are dozens of reviews in the legal trade press about it, but it is not on your website? I can find no reference in the press, etc. to this 2017 petition being “withdrawn.” I am puzzled.

The second one (2015) is on your website.

I will be interested in hearing what you find out about both of these.

1. <https://buffaloriveralliance.org/resources/Pictures/citizens%20cafo%20cwa%20petition.pdf>
2. https://www.epa.gov/sites/production/files/2016-09/documents/cwa_cafo_ebrotzman_9_2015.pdf

Best!

Tom

Message

From: Nagle, Deborah [Nagle.Deborah@epa.gov]
Sent: 5/15/2017 6:43:12 PM
To: Utting, George [Utting.George@epa.gov]
Subject: RE: Meeting with Food & Water Watch Petitioners

Thanks George – they are now invited

From: Utting, George
Sent: Monday, May 15, 2017 10:55 AM
To: Nagle, Deborah <Nagle.Deborah@epa.gov>
Cc: Brennan, Ross <Brennan.Ross@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Bonnelycke, Nina <Bonnelycke.Nina@epa.gov>; Magruder, DeMara <Magruder.Demara@epa.gov>
Subject: Meeting with Food & Water Watch Petitioners

Hi Deborah,

In looking over the meeting schedule for the week, I observed that neither OGC nor OST are included in the meeting with the petitioners. I think it's a good idea to include OGC because they have an interest in these petitions and can help us with our response.

I also think we should include OST/EAD. Much of the petition raises ELG issues (as well as definitions that we copied into our regs) and there is considerable interplay on land application and other requirements, as well. As you know, we promulgated these regs jointly with OST, and so it makes sense to include them from that perspective, as well. I suggest including Rob Wood, Jan Goodwin, and Paul Shriner on the invite.

GU

George Utting
Water Permits Division (MC-4203M)
U.S. EPA, 1200 Pennsylvania Avenue, NW,
Washington, DC 20460-0001
(202) 564-0744 / Fax (202) 564-6384

From: Nagle, Deborah
Sent: Wednesday, March 08, 2017 5:37 PM
To: Utting, George <Utting.George@epa.gov>
Subject: Fwd: Food & Water Watch et al petition

Jenny has the petition. See below

Sent from my iPhone

Begin forwarded message:

From: "Levine, MaryEllen" <levine.maryellen@epa.gov>
To: "Wood, Robert" <Wood.Robert@epa.gov>
Cc: "Nagle, Deborah" <Nagle.Deborah@epa.gov>, "Witt, Richard" <Witt.Richard@epa.gov>, "Shriner, Paul" <Shriner.Paul@epa.gov>
Subject: FW: Food & Water Watch et al petition

OWM has this but it in part asks us to revise the CAFO ELGs

- Mary Ellen

Mary Ellen Levine
Assistant General Counsel
Water Law Office, Office of General Counsel
7510 C WJC North
(202) 564-5487

From: Kupchan, Simma
Sent: Wednesday, March 08, 2017 5:06 PM
To: Levine, MaryEllen <levine.maryellen@epa.gov>; Neugeboren, Steven
<Neugeboren.Steven@epa.gov>
Subject: FW: Food & Water Watch et al petition

FYI – petition to revise the CAFO regulations.

Simma Kupchan
Water Law Office
US EPA Office of General Counsel
William Jefferson Clinton Building North Room 7426Q
(p) 202-564-3105

From: Bonnelycke, Nina
Sent: Wednesday, March 08, 2017 5:02 PM
To: Kupchan, Simma <Kupchan.Simma@epa.gov<<mailto:Kupchan.Simma@epa.gov>>>
Cc: Molloy, Jennifer <molloy.jennifer@epa.gov<<mailto:molloy.jennifer@epa.gov>>>; Abrams,
Nancy <Abrams.Nancy@epa.gov<<mailto:Abrams.Nancy@epa.gov>>>
Subject: Fw: Food & Water Watch et al petition

Just in case you haven't seen this yet.

~~~~~

Nina J. Bonnelycke

Rural Branch, Water Permits Division

Office of Wastewater Management

U.S. Environmental Protection Agency

1200 Pennsylvania Ave., N.W., 4203M

Washington, D.C. 20460

(202)564-0764

---

From: Molloy, Jennifer  
Sent: Wednesday, March 8, 2017 4:52 PM  
To: Abrams, Nancy; Bonnelycke, Nina; Jones, Kristin; Subramanian, Hema; Utting, George;  
Ziobro, Joseph  
Subject: Food & Water Watch et al petition

I haven't read it carefully, but I scanned it. It's interesting and also frustrating.

Jenny Molloy

U.S. EPA

Water Permits Division

202.564.1939

[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)<<mailto:molloy.jennifer@epa.gov>>

Message

---

**From:** Zobrist, Marcus [Zobrist.Marcus@epa.gov]  
**Sent:** 12/2/2020 5:53:59 PM  
**To:** Utting, George [Utting.George@epa.gov]  
**Subject:** RE: cafo petition appendix

Thanks. This looks good.

---

**From:** Utting, George  
**Sent:** Tuesday, December 01, 2020 5:50 PM  
**To:** Zobrist, Marcus <Zobrist.Marcus@epa.gov>  
**Subject:** cafo petition appendix

Ok I took a stab and shortened it by 3 pages. This version is abridged (but cleaner in places). Anything more is less. : )

Have a nice evening!

Message

---

**From:** Zobrist, Marcus [Zobrist.Marcus@epa.gov]  
**Sent:** 11/30/2020 2:05:14 PM  
**To:** Utting, George [Utting.George@epa.gov]  
**Subject:** FW: Petition Table  
**Attachments:** Appendix A for Petitions to Revise CAFO Regulations.docx

George,

Please use this version for any future edits. Thanks.

---

**From:** Kloss, Christopher  
**Sent:** Monday, November 30, 2020 8:38 AM  
**To:** Zobrist, Marcus <Zobrist.Marcus@epa.gov>  
**Cc:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Chan, Jennifer <Chan.Jennifer@epa.gov>  
**Subject:** Petition Table

Marcus,

If you and George haven't gotten too far with the table, here is the one that we shared with Andrew that was formatted a bit.

---

Chris Kloss  
Water Permits Division  
US EPA Office of Water  
202.564.1438 (o)

Ex. 6 Personal Privacy (PP)

**To:** Utting, George[Utting.George@epa.gov]  
**From:** Molloy, Jennifer[/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=D58B88880EC245048A8B17A62EB915FA-MOLLOY, JENNIFER]  
**Sent:** Wed 7/18/2018 11:44:51 AM (UTC)  
**Subject:** 'WPD and WLO draft Agenda'

FYI since I forgot to cc you on my original note.

Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939  
[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

---

**From:** Gutierrez, Sally  
**Sent:** Wednesday, July 18, 2018 7:41 AM  
**To:** Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>  
**Subject:** RE: Levine, MaryEllen has shared 'WPD and WLO draft Agenda'

Thanks Jenny.

---

**From:** Molloy, Jennifer  
**Sent:** Wednesday, July 18, 2018 7:40 AM  
**To:** Gutierrez, Sally <[Gutierrez.Sally@epa.gov](mailto:Gutierrez.Sally@epa.gov)>  
**Subject:** RE: Levine, MaryEllen has shared 'WPD and WLO draft Agenda'

Sally:  
George is attending this meeting for RB today since the only thing on the agenda that relates to us (FWW petition) is something he's working on.

Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939  
[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

Message

---

**From:** Zobrist, Marcus [Zobrist.Marcus@epa.gov]  
**Sent:** 11/17/2020 5:34:43 PM  
**To:** Saxena, Juhi [Saxena.Juhi@epa.gov]  
**Subject:** RE: Outstanding Petitions

Ok.

---

**From:** Saxena, Juhi <Saxena.Juhi@epa.gov>  
**Sent:** Tuesday, November 17, 2020 12:32 PM  
**To:** Zobrist, Marcus <Zobrist.Marcus@epa.gov>  
**Subject:** RE: Outstanding Petitions

I am unable to attend the 3:30 meeting today. Happy to discuss – my calendar is up to date.

---

**From:** Zobrist, Marcus <Zobrist.Marcus@epa.gov>  
**Sent:** Tuesday, November 17, 2020 11:29 AM  
**To:** Saxena, Juhi <Saxena.Juhi@epa.gov>  
**Subject:** FW: Outstanding Petitions

Hi Juhi,

As I mentioned during the branch meeting today, OW is interested in potentially responding to two outstanding petitions for rulemaking under the CAFO regs. Andrew has a meeting with OW next week to discuss this request, and I have asked George to take the lead in drafting talking points for Andrew

**Ex. 5 Deliberative Process (DP)**

## Ex. 5 Deliberative Process (DP)

To that end, OGC just inviting WPD to a meeting this afternoon to scope out this work. I will forward that invite to you in a moment. If you are available, I would like you to attend. Attached are the petitions that will be discussed.

## Ex. 5 Deliberative Process (DP)

---

**From:** Zobrist, Marcus  
**Sent:** Tuesday, November 10, 2020 1:52 PM  
**To:** Utting, George <Utting.George@epa.gov>  
**Subject:** FW: Outstanding Petitions

These are the petitions....

---

**From:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>  
**Sent:** Tuesday, November 10, 2020 1:27 PM  
**To:** Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Kloss, Christopher <Kloss.Christopher@epa.gov>  
**Cc:** Chan, Jennifer <Chan.Jennifer@epa.gov>  
**Subject:** RE: Outstanding Petitions



Hi Marcus:

Adding a few more items in addition to the files:

1. Our response to Anna back in the summer:

Hello Anna:

Regarding the 2017 FWW petition:

- The EPA team met with FWW several times regarding this petition. Attached please find a summary of issues raised by FWW and our responses at the time. The petition is still pending.

Ex. 5 Deliberative Process (DP)

## Ex. 5 Deliberative Process (DP)

## Ex. 5 Deliberative Process (DP)

The *withdrawal petition* page is owned and updated by OWM. Because the two petitions listed below are not withdrawal petitions, they were not uploaded to the OWM withdrawal petition website. The regulatory petition page listed below <https://www.epa.gov/aboutepa/petitions-office-water> belongs to OPA.

---

**From:** Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>

**Sent:** Tuesday, November 10, 2020 11:59 AM

**To:** Kloss, Christopher <[Kloss.Christopher@epa.gov](mailto:Kloss.Christopher@epa.gov)>; Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Cc:** Chan, Jennifer <[Chan.Jennifer@epa.gov](mailto:Chan.Jennifer@epa.gov)>

**Subject:** RE: Outstanding Petitions

Could someone forward me the attached petitions – not sure what is being referred to.

---

**From:** Kloss, Christopher <[Kloss.Christopher@epa.gov](mailto:Kloss.Christopher@epa.gov)>

**Sent:** Tuesday, November 10, 2020 11:15 AM

**To:** Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>

**Cc:** Chan, Jennifer <[Chan.Jennifer@epa.gov](mailto:Chan.Jennifer@epa.gov)>

**Subject:** RE: Outstanding Petitions

Thanks Maria – I didn't connect the dots on this. I can forward George's initial assessment to Andrew for context unless there is other info that we should provide.

---

**From:** Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>

**Sent:** Tuesday, November 10, 2020 11:07 AM

**To:** Kloss, Christopher <[Kloss.Christopher@epa.gov](mailto:Kloss.Christopher@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>

**Cc:** Chan, Jennifer <[Chan.Jennifer@epa.gov](mailto:Chan.Jennifer@epa.gov)>

**Subject:** RE: Outstanding Petitions

Hi Chris- these are the petitions that came in a week or so ago and Marcus/George/Jenny were contacted by OST. Quick summary:

# Ex. 5 Deliberative Process (DP)

Thanks.

Maria

---

**From:** Kloss, Christopher <Kloss.Christopher@epa.gov>

**Sent:** Tuesday, November 10, 2020 10:52 AM

**To:** Weiss, Kevin <Weiss.Kevin@epa.gov>

**Cc:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Chan, Jennifer <Chan.Jennifer@epa.gov>

**Subject:** FW: Outstanding Petitions

Kevin,

Please see Andrew's email below. Checking to see if you have any awareness – I do not have any specific information.

Thanks.

---

Chris Kloss

Water Permits Division

US EPA Office of Water

202.564.1438 (o)

202.763.9562 (m)

---

**From:** Sawyers, Andrew <Sawyers.Andrew@epa.gov>

**Sent:** Tuesday, November 10, 2020 10:42 AM

**To:** Kloss, Christopher <Kloss.Christopher@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Miller, Wynne <Miller.Wynne@epa.gov>

**Subject:** FW: Outstanding Petitions

Chris, do you have any intelligence on the following? I need it before I call Anna.

Thanks

---

**From:** Wildeman, Anna <wildeman.anna@epa.gov>

**Sent:** Tuesday, November 10, 2020 7:46 AM

**To:** Sawyers, Andrew <Sawyers.Andrew@epa.gov>

**Subject:** Outstanding Petitions

Andrew, please give me a call about the attached petitions.

Thanks,

Anna

**Anna Wildeman**

Principal Deputy Assistant Administrator

Office of Water

Environmental Protection Agency

1200 Pennsylvania Avenue, NW

Washington, DC 20460

202-564-5700

Wildeman,Anna@epa.gov

Message

---

**From:** Zobrist, Marcus [Zobrist.Marcus@epa.gov]  
**Sent:** 11/17/2020 1:15:30 PM  
**To:** Lopez-Carbo, Maria [Lopez-Carbo.Maria@epa.gov]; Utting, George [Utting.George@epa.gov]  
**Subject:** RE: CAFO Petitions before OW

Thanks. We will get you the bullets on Friday.

---

**From:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>  
**Sent:** Tuesday, November 17, 2020 7:16 AM  
**To:** Utting, George <Utting.George@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>  
**Subject:** FW: CAFO Petitions before OW

Good Morning George & Marcus:

So for the Tuesday meeting with Anna, I usually write talking points (bullets) for Andrew. For this project, I probably need your assistance.

I have to hand the bullets by Friday. We just want to make sure to write the key items we want to share and questions we want him to ask.

Thanks

Maria

---

**From:** Utting, George <Utting.George@epa.gov>  
**Sent:** Monday, November 16, 2020 5:48 PM  
**To:** Kupchan, Simma <Kupchan.Simma@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>; Levine, MaryEllen <levine.maryellen@epa.gov>  
**Subject:** RE: CAFO Petitions before OW

## Ex. 5 Deliberative Process (DP)

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**From:** Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Sent:** Monday, November 16, 2020 5:34 PM  
**To:** Utting, George <Utting.George@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>; Levine, MaryEllen <levine.maryellen@epa.gov>  
**Subject:** RE: CAFO Petitions before OW

George,

## Ex. 5 Deliberative Process (DP)

Simma Kupchan

EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

---

**From:** Utting, George <Utting.George@epa.gov>

**Sent:** Monday, November 16, 2020 5:00 PM

**To:** Kupchan, Simma <Kupchan.Simma@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

**Subject:** RE: CAFO Petitions before OW

Simma,

# Ex. 5 Attorney Client (AC)

Thanks!

George

---

**From:** Kupchan, Simma <Kupchan.Simma@epa.gov>

**Sent:** Tuesday, July 21, 2020 1:27 PM

**To:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

**Subject:** RE: CAFO Petitions before OW

Fine by me.

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

---

**From:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>

**Sent:** Tuesday, July 21, 2020 1:24 PM

**To:** Kupchan, Simma <Kupchan.Simma@epa.gov>; Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

**Subject:** RE: CAFO Petitions before OW

Thank you Simma.

Andrew just asked for a copy of the response.

Would it be okay to share?

Thanks.

---

**From:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>

**Sent:** Tuesday, July 21, 2020 12:19 PM

**To:** Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Subject:** RE: CAFO Petitions before OW

Thanks, all. I proposed a few edits to the response to Anna, in strikethrough/red.

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
WJC North Building # 7426Q  
202-564-3105

---

**From:** Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>

**Sent:** Tuesday, July 21, 2020 11:57 AM

**To:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Cc:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>

**Subject:** RE: CAFO Petitions before OW

thank you all.

Marcus- I can reach out to Macara, not a problem.

Thanks.  
Maria

---

**From:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>

**Sent:** Tuesday, July 21, 2020 11:34 AM

**To:** Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Cc:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>

**Subject:** RE: CAFO Petitions before OW

I have more in the way of question/suggestions rather than specific edits.

First, I am not sure whether or not the Ag Advisor's office has been involved. When I went back to look, I only see that there was an email from the Smart Sectors Communications Director through Mary Schollhamer. I do not recall whether there was actual involvement with the Ag Advisor's office.

Second, with respect to the attachment, it is more than just a meeting summary. It is a summary of the issues raised in the petition and subsequent steps taken to engage with the petitioners.

I've highlighted where both of these issues occur below.

---

**From:** Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>

**Sent:** Tuesday, July 21, 2020 11:23 AM

**To:** Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Cc:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>

**Subject:** RE: CAFO Petitions before OW

Hi,  
Suggesting a few additional edits to clarify that EPA has a few different websites focused on petitions.

---

Good Morning Anna:

EPA has two distinct website pages regarding petitions. If we recall correctly, the Water Policy branch Staff in OW is responsible for the other petition page at <https://www.epa.gov/aboutepa/petitions-office-water> but we would need to look into the website program area to determine the owner.

The withdrawal petition page is owned and updated by OWM. Because the two petitions listed below are not withdrawal petitions, they were not uploaded to the OWM withdrawal petition website.

Regarding the 2017 FWW petition:

- The EPA team has met with FWW several times regarding this petition. Attached you will find a meeting summary of the March 8, 2017 meeting with FWW.

## Ex. 5 Deliberative Process (DP)

- Most recently, the team worked with the Ag Advisor to provide a response to FWW regarding their pending petition ~~this topic~~. We can share that response if you like.

## Ex. 5 Deliberative Process (DP)

**From:** Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>

**Sent:** Tuesday, July 21, 2020 11:12 AM

**To:** Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Cc:** Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>

**Subject:** RE: CAFO Petitions before OW

---

**From:** Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>

**Sent:** Tuesday, July 21, 2020 10:56 AM

**To:** Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>; Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Cc:** Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>

**Subject:** RE: CAFO Petitions before OW

*Draft response below- please feel free to edit. Thanks.*

Good Morning Anna:

EPA has two distinct website pages regarding petitions:

1. The withdrawal petition page is owned and updated by OWM.
2. Because the two petitions listed below are not withdrawal petitions, they were not uploaded to the OWM withdrawal petition website.
3. If we recall correctly, the Water Policy branch in OW is responsible for the other petition page but we would need to look into the website program area to determine the owner.

Regarding the 2017 FWW petition:

- The EPA team has met with FWW several times regarding this petition. Attached you will find a meeting summary of the March 8, 2017 meeting with FWW.

## Ex. 5 Deliberative Process (DP)

- Most recently, the team worked with the Ag Advisor to provide a response to FWW regarding this topic. We can share that response if you like.

## Ex. 5 Deliberative Process (DP)

**From:** Molloy, Jennifer <[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)>

**Sent:** Tuesday, July 21, 2020 10:28 AM

**To:** Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Bathersfield, Nizanna <[Bathersfield.Nizanna@epa.gov](mailto:Bathersfield.Nizanna@epa.gov)>; Lopez-Carbo, Maria <[Lopez-Carbo.Maria@epa.gov](mailto:Lopez-Carbo.Maria@epa.gov)>; Weiss, Kevin <[Weiss.Kevin@epa.gov](mailto:Weiss.Kevin@epa.gov)>

**Cc:** Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>; Kupchan, Simma <[Kupchan.Simma@epa.gov](mailto:Kupchan.Simma@epa.gov)>

**Subject:** RE: CAFO Petitions before OW

Just wrapping in Simma and Marcus in case they want to add anything.

We did meet several times with FWW et al on the 2017 petition,

**Ex. 5 Deliberative Process (DP)**

## Ex. 5 Deliberative Process (DP)

Like George, I don't really remember the other one.

Jennyh

Jenny Molloy

U.S. EPA

Water Permits Division

**Ex. 6 Personal Privacy (PP)**

[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)



---

**From:** Utting, George <Utting.George@epa.gov>

**Sent:** Tuesday, July 21, 2020 10:19 AM

**To:** Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

**Cc:** Molloy, Jennifer <molloy.jennifer@epa.gov>

**Subject:** RE: CAFO Petitions before OW

Maria,

## Ex. 5 Deliberative Process (DP)

---

**From:** Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>

**Sent:** Tuesday, July 21, 2020 10:13 AM

**To:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

**Cc:** Utting, George <Utting.George@epa.gov>; Molloy, Jennifer <molloy.jennifer@epa.gov>

**Subject:** RE: CAFO Petitions before OW

Looping in Jenny. I don't know what the status of these are but these would have been assigned to the Industrial Branch since they aren't withdrawal petitions but instead focus on EPA's CAFO program requirements. I was aware of the Food and Water Watch petition [ there were some discussions when it came in] but I hadn't heard about the Buffalo River Alliance one.

---

**From:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>

**Sent:** Tuesday, July 21, 2020 10:02 AM

**To:** Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>; Weiss, Kevin <Weiss.Kevin@epa.gov>

**Cc:** Utting, George <Utting.George@epa.gov>

**Subject:** FW: CAFO Petitions before OW

Good Morning Nizanna and Kevin:

Please see request below from Anna. Do you all have information on these petitions?

Adding George since its CAFO and maybe he has some knowledge on this.

Thank you

Maria

---

**From:** Sawyers, Andrew <Sawyers.Andrew@epa.gov>

**Sent:** Tuesday, July 21, 2020 9:29 AM

**To:** Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>; Kloss, Christopher <Kloss.Christopher@epa.gov>

**Cc:** Miller, Wynne <Miller.Wynne@epa.gov>; Sylvester, Francis <Sylvester.Francis@epa.gov>; Sylvester, Francis <Sylvester.Francis@epa.gov>

**Subject:** FW: CAFO Petitions before OW

Hello Maria and Chris, please see the request from Anna below. Please let me know what you find out – thanks.

---

**From:** Wildeman, Anna <[wildeman.anna@epa.gov](mailto:wildeman.anna@epa.gov)>  
**Sent:** Tuesday, July 21, 2020 9:26 AM  
**To:** Sawyers, Andrew <[Sawyers.Andrew@epa.gov](mailto:Sawyers.Andrew@epa.gov)>  
**Cc:** Aguirre, Janita <[Aguirre.Janita@epa.gov](mailto:Aguirre.Janita@epa.gov)>  
**Subject:** FW: CAFO Petitions before OW

Andrew, can you find out for me if EPA responded to these two petitions? If yes, can you please send me our responses. If no, can you let me know if something is in process? Also see Tom's question below on the FWW petition—should it be on our website?

Thanks,  
Anna

---

**From:** Thomas Hebert <[tom.hebert@bayardridge.com](mailto:tom.hebert@bayardridge.com)>  
**Sent:** Tuesday, July 21, 2020 9:20 AM  
**To:** Wildeman, Anna <[wildeman.anna@epa.gov](mailto:wildeman.anna@epa.gov)>  
**Subject:** CAFO Petitions before OW

Hi Anna,

Below are two petitions. The first by Food and Water Watch et al (2017) is referenced in this story on their website: <https://www.foodandwaterwatch.org/news/dozens-advocacy-groups-challenge-epa-factory-farm-pollution>. If you Google the topic you will find several versions of this same story. To my great surprise, the 2017 petition is not listed on the OW website. (<https://www.epa.gov/aboutepa/petitions-office-water>). Food and Water watch says they filed it, there are dozens of reviews in the legal trade press about it, but it is not on your website? I can find no reference in the press, etc. to this 2017 petition being “withdrawn.” I am puzzled.

The second one (2015) is on your website.

I will be interested in hearing what you find out about both of these.

1. <https://buffaloriveralliance.org/resources/Pictures/citizens%20cafo%20cwa%20petition.pdf>
2. [https://www.epa.gov/sites/production/files/2016-09/documents/cwa\\_cafo\\_ebrotzman\\_9\\_2015.pdf](https://www.epa.gov/sites/production/files/2016-09/documents/cwa_cafo_ebrotzman_9_2015.pdf)

Best!

Tom

## Appointment

---

**From:** Kupchan, Simma [Kupchan.Simma@epa.gov]  
**Sent:** 11/17/2020 2:39:11 PM  
**To:** Kupchan, Simma [Kupchan.Simma@epa.gov]; Utting, George [Utting.George@epa.gov]  
**CC:** Zobrist, Marcus [Zobrist.Marcus@epa.gov]; Bathersfield, Nizanna [Bathersfield.Nizanna@epa.gov]; Saxena, Juhi [Saxena.Juhi@epa.gov]

**Subject:** CAFO petition  
**Location:** Skype Meeting

**Start:** 11/17/2020 8:30:00 PM  
**End:** 11/17/2020 9:00:00 PM  
**Show Time As:** Busy

**Required Attendees:** Kupchan, Simma; George Utting  
**Optional Attendees:** Marcus Zobrist (Zobrist.Marcus@epa.gov); Bathersfield, Nizanna; Saxena, Juhi

---

### Join Skype Meeting

Trouble Joining? [Try Skype Web App](#)

### Join by phone

Toll number:

**Ex. 6 Personal Privacy (PP)**

English (United States)

[Find a local number](#)

Conference ID:

**Ex. 6 Personal Privacy (PP)**

[Forgot your dial-in PIN?](#) | [Help](#)

---

## Appointment

---

**From:** Brennan, Ross [Brennan.Ross@epa.gov]  
**Sent:** 7/25/2018 1:28:21 PM  
**To:** Brennan, Ross [Brennan.Ross@epa.gov]; Utting, George [Utting.George@epa.gov]  
**Subject:** -Call with Krissy and Tarah  
**Location:** Ross's office  
**Start:** 7/26/2018 4:00:00 PM  
**End:** 7/26/2018 4:30:00 PM  
**Show Time As:** Busy

**Required Attendees:** Utting, George

### Join by Telephone

For higher quality, dial a number based on your current location.

**Dial:** US: +1 669 900 6833 or +1 646 876 9923 or +1 877 853 5247 (Toll Free) or +1 877 369 0926 (Toll Free)  
**Meeting ID:** 809 229 247

**From:** "Brennan, Ross" <Brennan.Ross@epa.gov>  
**Date:** Tuesday, July 24, 2018 at 3:47 PM  
**To:** Krissy Kasserman <kkasserman@fwwatch.org>  
**Subject:** RE: Krissy and Tarah - a quick update

Best is Thursday noon, second-best is Thursday at two. Want to set something up for either of those two time slots?

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management  
(202) 564-3248

**From:** Krissy Kasserman [mailto:kkasserman@fwwatch.org]  
**Sent:** Monday, July 23, 2018 3:03 PM  
**To:** Tarah Heinzen <theinzen@fwwatch.org>; Brennan, Ross <Brennan.Ross@epa.gov>  
**Subject:** Re: Krissy and Tarah - a quick update

Hi Ross! Apologies for the delay in this response—I'm still catching up from vacation. And I hope you also enjoyed vacation!

Yes—let's find time this week to chat. Are you available Wednesday at 12 or 1 or Thursday at 12, 1, 2 or 4?

Thanks,

Krissy

**From:** Tarah Heinzen <[theinzen@fwwatch.org](mailto:theinzen@fwwatch.org)>  
**Date:** Thursday, July 12, 2018 at 6:59 PM  
**To:** "Brennan, Ross" <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>, Krissy Kasserman <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)>  
**Subject:** Re: Krissy and Tarah - a quick update

Hi Ross, thanks a lot for this update and your earlier email about the CBF decision. I'm glad to hear you've had the opportunity to discuss the petition with Sally Gutierrez and that she's interested in continuing the conversation. Krissy is out until next Wednesday, but I think we'll be able to find a time the week of the 23<sup>rd</sup>. We'll try to send you some available times late next week.

Looking forward to catching up and have a great vacation,  
Tarah

**Tarah Heinzen**  
Staff Attorney  
[Food & Water Watch](#) and [Food & Water Action](#)

O (202) 683-2457

Ex. 6 Personal Privacy (PP)  
[theinzen@fwwatch.org](mailto:theinzen@fwwatch.org)

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**From:** "Brennan, Ross" <[Brennan.Ross@epa.gov](mailto:Brennan.Ross@epa.gov)>  
**Date:** Wednesday, July 11, 2018 at 11:18 AM  
**To:** Krissy Kasserman <[kkasserman@fwwatch.org](mailto:kkasserman@fwwatch.org)>, Tarah Heinzen <[theinzen@fwwatch.org](mailto:theinzen@fwwatch.org)>  
**Subject:** Krissy and Tarah - a quick update

Greetings, Tarah and Krissy,

I wanted to let you know we had a chance to sit down with our acting division director, Sally Gutierrez, today for a detailed discussion of the CAFO rulemaking petition and the subsequent calls between EPA and the petitioners. Sally is very interested in proceeding with the dialogue and would like to meet – face to face – if possible to discuss how best to proceed. I'm about to head out of town for vacation, but perhaps we could identify a time during the week of July 23 when I could catch up with you to discuss some next steps, including a discussion with Sally shortly thereafter.

Hope all is well.

---

Ross Brennan  
Acting Chief, Rural Branch  
EPA Office of Wastewater Management

(202) 564-3248

## Appointment

---

**From:** Utting, George [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E9289B2B07EF42B795E04EA84CFF7344-GUTTING]  
**Sent:** 7/6/2017 7:38:51 PM  
**To:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Subject:** Accepted: HOLD: CAFO Petition Meeting w/Petitioners  
**Start:** 8/9/2017 6:00:00 PM  
**End:** 8/9/2017 8:00:00 PM  
**Show Time As:** Busy

## Appointment

---

**From:** Utting, George [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E9289B2B07EF42B795E04EA84CFF7344-GUTTING]  
**Sent:** 7/6/2017 7:16:08 PM  
**To:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Subject:** Accepted: HOLD: CAFO Petition Meeting w/Petitioners  
**Start:** 8/8/2017 1:00:00 PM  
**End:** 8/8/2017 3:00:00 PM  
**Show Time As:** Busy



## Appointment

---

**From:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Sent:** 7/7/2017 4:44:39 PM  
**To:** Nagle, Deborah [Nagle.Deborah@epa.gov]; Brennan, Ross [Brennan.Ross@epa.gov]; Shenk, Kelly [shenk.kelly@epa.gov]; Utting, George [Utting.George@epa.gov]

**Subject:** Canceled: CAFO Petition Meeting w/Petitioners

**Start:** 8/15/2017 5:00:00 PM  
**End:** 8/15/2017 6:00:00 PM  
**Show Time As:** Free

**Importance:** High

**Required Attendees:** Brennan, Ross; Shenk, Kelly; Utting, George

## Appointment

---

**From:** Utting, George [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E9289B2B07EF42B795E04EA84CFF7344-GUTTING]  
**Sent:** 7/6/2017 4:57:17 PM  
**To:** Nagle, Deborah [Nagle.Deborah@epa.gov]  
**Subject:** Accepted: HOLD: CAFO Petition Meeting w/Petitioners  
**Start:** 8/1/2017 1:00:00 PM  
**End:** 8/1/2017 3:00:00 PM  
**Show Time As:** Busy

## Appointment

---

**From:** Utting, George [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=E9289B2B07EF42B795E04EA84CFF7344-GUTTING]  
**Sent:** 6/13/2018 9:34:03 PM  
**To:** Brennan, Ross [Brennan.Ross@epa.gov]  
**Subject:** Accepted: -Touch base - Next steps for FWW CAFO petition  
**Location:** Simma's conference room?  
**Start:** 6/27/2018 6:30:00 PM  
**End:** 6/27/2018 7:00:00 PM  
**Show Time As:** Busy

## Appointment

---

**From:** Brennan, Ross [Brennan.Ross@epa.gov]  
**Sent:** 6/13/2018 9:33:29 PM  
**To:** Brennan, Ross [Brennan.Ross@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]; Utting, George [Utting.George@epa.gov]

**Subject:** -Touch base - Next steps for FWW CAFO petition  
**Location:** Simma's conference room?

**Start:** 6/27/2018 6:30:00 PM  
**End:** 6/27/2018 7:00:00 PM  
**Show Time As:** Busy

**Required Attendees:** Kupchan, Simma; Utting, George

Message

---

**From:** Wildeman, Anna [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=05DD0AF69BFA40429E438B7646502B99-WILDEMAN, A]  
**Sent:** 7/22/2020 10:54:15 AM  
**To:** Ross, David P [ross.davidp@epa.gov]  
**CC:** Aguirre, Janita [Aguirre.Janita@epa.gov]  
**Subject:** Fwd: Streamlined Response for Anna- CAFO Petitions before OW  
**Attachments:** Summary - FWW Petition (002).docx; ATT00001.htm

**Anna Wildeman**

Principal Deputy Assistant Administrator  
Office of Water  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460  
202-564-5700  
Wildeman.Anna@epa.gov

Begin forwarded message:

**From:** "Sawyers, Andrew" <Sawyers.Andrew@epa.gov>  
**Date:** July 21, 2020 at 5:54:01 PM EDT  
**To:** "Wildeman, Anna" <wildeman.anna@epa.gov>  
**Cc:** "Lopez-Carbo, Maria" <Lopez-Carbo.Maria@epa.gov>  
**Subject:** FW: Streamlined Response for Anna- CAFO Petitions before OW

Hello Anna:

Regarding the 2017 FWW petition:

- The EPA team met with FWW several times regarding this petition. Attached please find a summary of issues raised by FWW and our responses at the time. The petition is still pending.

**Ex. 5 Deliberative Process (DP)**

## Ex. 5 Deliberative Process (DP)

The *withdrawal petition* page is owned and updated by OWM. Because the two petitions listed below are not withdrawal petitions, they were not uploaded to the OWM withdrawal petition website. The regulatory petition page listed below <https://www.epa.gov/aboutepa/petitions-office-water> belongs to OPA.

---

**From:** Wildeman, Anna <wildeman.anna@epa.gov>  
**Sent:** Tuesday, July 21, 2020 9:26 AM  
**To:** Sawyers, Andrew <Sawyers.Andrew@epa.gov>

**Cc:** Aguirre, Janita <[Aguirre.Janita@epa.gov](mailto:Aguirre.Janita@epa.gov)>

**Subject:** FW: CAFO Petitions before OW

Andrew, can you find out for me if EPA responded to these two petitions? If yes, can you please send me our responses. If no, can you let me know if something is in process? Also see Tom's question below on the FWW petition—should it be on our website?

Thanks,  
Anna

---

**From:** Thomas Hebert <[tom.hebert@bayardridge.com](mailto:tom.hebert@bayardridge.com)>

**Sent:** Tuesday, July 21, 2020 9:20 AM

**To:** Wildeman, Anna <[wildeman.anna@epa.gov](mailto:wildeman.anna@epa.gov)>

**Subject:** CAFO Petitions before OW

Hi Anna,

Below are two petitions. The first by Food and Water Watch et al (2017) is referenced in this story on their website: <https://www.foodandwaterwatch.org/news/dozens-advocacy-groups-challenge-epa-factory-farm-pollution>. If you Google the topic you will find several versions of this same story. To my great surprise, the 2017 petition is **not** listed on the OW website. (<https://www.epa.gov/aboutepa/petitions-office-water>). Food and Water watch says they filed it, there are dozens of reviews in the legal trade press about it, but it is not on your website? I can find no reference in the press, etc. to this 2017 petition being “withdrawn.” I am puzzled.

The second one (2015) is on your website.

I will be interested in hearing what you find out about both of these.

1. <https://buffaloriveralliance.org/resources/Pictures/citizens%20cafo%20cwa%20petition.pdf>
2. [https://www.epa.gov/sites/production/files/2016-09/documents/cwa\\_cafo\\_ebrotzman\\_9\\_2015.pdf](https://www.epa.gov/sites/production/files/2016-09/documents/cwa_cafo_ebrotzman_9_2015.pdf)

Best!

Tom

Message

---

**From:** Molloy, Jennifer [molloy.jennifer@epa.gov]  
**Sent:** 3/6/2019 5:30:09 PM  
**To:** Zobrist, Marcus [Zobrist.Marcus@epa.gov]  
**Subject:** FWW petition  
**Attachments:** citizens\_cafo\_cwa\_petition.pdf

Jenny Molloy  
U.S. EPA  
Water Permits Division  
202.564.1939  
[molloy.jennifer@epa.gov](mailto:molloy.jennifer@epa.gov)

## Appointment

---

**From:** Zobrist, Marcus [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=844DEB75A43B4D319C6ADCAF8A5B2E4B-MZOBTRIST]  
**Sent:** 11/17/2020 4:29:42 PM  
**To:** Saxena, Juhi [Saxena.Juhi@epa.gov]  
**Subject:** FW: CAFO petition  
**Location:** Skype Meeting  
**Start:** 11/17/2020 8:30:00 PM  
**End:** 11/17/2020 9:00:00 PM  
**Show Time As:** Tentative

-----Original Appointment-----

**From:** Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Sent:** Tuesday, November 17, 2020 10:50 AM  
**To:** Kupchan, Simma; Utting, George  
**Cc:** Zobrist, Marcus; Bathersfield, Nizanna  
**Subject:** CAFO petition  
**When:** Tuesday, November 17, 2020 3:30 PM-4:00 PM (UTC-05:00) Eastern Time (US & Canada).  
**Where:** Skype Meeting

Simma sent me an invite for a call today on the petitions. In case either of you are available.

-----Original Appointment-----

**From:** Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Sent:** Tuesday, November 17, 2020 9:39 AM  
**To:** Kupchan, Simma; Utting, George  
**Subject:** CAFO petition  
**When:** Tuesday, November 17, 2020 3:30 PM-4:00 PM (UTC-05:00) Eastern Time (US & Canada).  
**Where:** Skype Meeting

---

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[Find a local number](#)  
Conference ID: **Ex. 6 Personal Privacy (PP)**  
[Forgot your dial-in PIN?](#) | [Help](#)

---



## Appointment

---

**From:** Kupchan, Simma [Kupchan.Simma@epa.gov]  
**Sent:** 11/17/2020 3:50:04 PM  
**To:** Kupchan, Simma [Kupchan.Simma@epa.gov]; Utting, George [Utting.George@epa.gov]  
**CC:** Zobrist, Marcus [Zobrist.Marcus@epa.gov]; Bathersfield, Nizanna [Bathersfield.Nizanna@epa.gov]; Saxena, Juhi [Saxena.Juhi@epa.gov]

**Subject:** CAFO petition  
**Location:** Skype Meeting

**Start:** 11/17/2020 8:30:00 PM  
**End:** 11/17/2020 9:00:00 PM  
**Show Time As:** Busy

**Required Attendees:** Kupchan, Simma; George Utting  
**Optional Attendees:** Marcus Zobrist (Zobrist.Marcus@epa.gov); Bathersfield, Nizanna; Saxena, Juhi

Simma sent me an invite for a call today on the petitions. In case either of you are available.

-----Original Appointment-----

**From:** Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Sent:** Tuesday, November 17, 2020 9:39 AM  
**To:** Kupchan, Simma; Utting, George  
**Subject:** CAFO petition  
**When:** Tuesday, November 17, 2020 3:30 PM-4:00 PM (UTC-05:00) Eastern Time (US & Canada).  
**Where:** Skype Meeting

---

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English (United States)

[Find a local number](#)

Conference ID: **Ex. 6 Personal Privacy (PP)**

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Message

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**From:** Wood, Robert [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B2676C137CF54DB0A5D98DF232901821-WOOD, ROBERT]  
**Sent:** 11/23/2020 2:52:01 PM  
**To:** Utting, George [Utting.George@epa.gov]  
**CC:** Shriner, Paul [Shriner.Paul@epa.gov]; Zobrist, Marcus [Zobrist.Marcus@epa.gov]; Scozzafava, MichaelE [Scozzafava.MichaelE@epa.gov]; Damico, Brian [Damico.Brian@epa.gov]; Pritts, Jesse [Pritts.Jesse@epa.gov]  
**Subject:** Re: CAFO petitions: Talking Points for Andrew, and list of all the issues

Thanks George. This is helpful to understand status and that's what my questions are really about.

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*Robert Wood, Director  
Engineering and Analysis Division  
U.S. EPA Office of Water  
202-566-1822*

On Nov 23, 2020, at 9:21 AM, Utting, George <Utting.George@epa.gov> wrote:

## Ex. 5 Deliberative Process (DP)

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**From:** Wood, Robert <Wood.Robert@epa.gov>  
**Sent:** Monday, November 23, 2020 7:53 AM  
**To:** Shriner, Paul <Shriner.Paul@epa.gov>  
**Cc:** Zobrist, Marcus <Zobrist.Marcus@epa.gov>; Scozzafava, MichaelE <Scozzafava.MichaelE@epa.gov>; Damico, Brian <Damico.Brian@epa.gov>; Utting, George <Utting.George@epa.gov>; Pritts, Jesse <Pritts.Jesse@epa.gov>  
**Subject:** Re: CAFO petitions: Talking Points for Andrew, and list of all the issues

# Ex. 5 Deliberative Process (DP)

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Robert Wood, Director  
Engineering and Analysis Division  
U.S. EPA Office of Water  
202-566-1822

On Nov 23, 2020, at 7:20 AM, Shriner, Paul <[Shriner.Paul@epa.gov](mailto:Shriner.Paul@epa.gov)> wrote:

## Ex. 5 Deliberative Process (DP)

Paul

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**From:** Wood, Robert <[Wood.Robert@epa.gov](mailto:Wood.Robert@epa.gov)>  
**Sent:** Monday, November 23, 2020 7:01 AM  
**To:** Zobrist, Marcus <[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)>  
**Cc:** Scozzafava, MichaelE <[Scozzafava.MichaelE@epa.gov](mailto:Scozzafava.MichaelE@epa.gov)>; Damico, Brian <[Damico.Brian@epa.gov](mailto:Damico.Brian@epa.gov)>; Utting, George <[Utting.George@epa.gov](mailto:Utting.George@epa.gov)>; Shriner, Paul <[Shriner.Paul@epa.gov](mailto:Shriner.Paul@epa.gov)>; Pritts, Jesse <[Pritts.Jesse@epa.gov](mailto:Pritts.Jesse@epa.gov)>  
**Subject:** Re: CAFO petitions: Talking Points for Andrew, and list of all the issues

## Ex. 5 Deliberative Process (DP)

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Robert Wood, Director  
Engineering and Analysis Division  
U.S. EPA Office of Water  
202-566-1822

On Nov 20, 2020, at 4:58 PM, Zobrist, Marcus  
<[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)> wrote:

Rob,

## Ex. 5 Deliberative Process (DP)

**From:** Zobrist, Marcus  
**Sent:** Friday, November 20, 2020 4:53 PM  
**To:** Kloss, Christopher <Kloss.Christopher@epa.gov>; Lopez-Carbo, Maria <Lopez-Carbo.Maria@epa.gov>  
**Cc:** Utting, George <Utting.George@epa.gov>; Bathersfield, Nizanna <Bathersfield.Nizanna@epa.gov>  
**Subject:** CAFO petitions: Talking Points for Andrew, and list of all the issues

Chris, Maria,

## Ex. 5 Deliberative Process (DP)

Thanks to George for developing these documents, they have been review by staff in OGC (Simma) and OST (Paul Shriner), Nizanna and I.

Marcus Zobrist |  
Chief, Industrial Branch  
U.S. Environmental Protection Agency  
Office of Wastewater Management and Air Quality Division  
Office: (202) 564-8311 **Ex. 6 Personal Privacy (PP)**  
[Zobrist.Marcus@epa.gov](mailto:Zobrist.Marcus@epa.gov)

This e-mail is intended solely for the use of the individual or entity to whom it is addressed and its content shall be regarded as confidential unless explicitly stated otherwise. If you have received this e-mail by mistake, please notify the sender immediately by e-mail and delete this e-mail from your system.

<Appendix A for Petitions to Revise CAFO Regulations draft2.docx>  
<Talking Points for Andrew about CAFO Petitions mz.docx>

Message

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**From:** Wood, Robert [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=B2676C137CF54DB0A5D98DF232901821-WOOD, ROBERT]  
**Sent:** 11/2/2020 6:33:20 PM  
**To:** Deborah Nagle [Nagle.Deborah@epa.gov]  
**Subject:** FW: ELGs  
**Attachments:** FWW Petition Summary - \_ gu sak.docx

Here's what MEL sent. Looks like asks and responses discussed at the March 8, 2017 meeting.

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*Robert Wood, Director  
Engineering and Analysis Division  
U.S. EPA Office of Water  
202-566-1822*

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**From:** Levine, MaryEllen <levine.maryellen@epa.gov>  
**Sent:** Monday, November 02, 2020 1:05 PM  
**To:** Wood, Robert <Wood.Robert@epa.gov>  
**Cc:** Kloss, Christopher <Kloss.Christopher@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Subject:** RE: ELGs

Here's what I found – very drafty

- *Mary Ellen*

Mary Ellen Levine  
Assistant General Counsel  
Water Law Office, Office of General Counsel  
7510 C WJC North  
(202) 564-1345

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**From:** Wood, Robert <Wood.Robert@epa.gov>  
**Sent:** Monday, November 02, 2020 1:03 PM  
**To:** Levine, MaryEllen <levine.maryellen@epa.gov>  
**Cc:** Kloss, Christopher <Kloss.Christopher@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Subject:** Re: ELGs

Hi everybody,

I would like to pull together a very brief status report on the petition. Deborah recalls having some meetings with petitioners, but not sure where we left it. Simma, do you have any record? Thanks,

Rob

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*Robert Wood, Director  
Engineering and Analysis Division  
U.S. EPA Office of Water*

On Nov 2, 2020, at 9:41 AM, Levine, MaryEllen <[levine.maryellen@epa.gov](mailto:levine.maryellen@epa.gov)> wrote:

## Ex. 5 Deliberative Process (DP)

- *Mary Ellen*

Mary Ellen Levine  
Assistant General Counsel  
Water Law Office, Office of General Counsel  
7510 C WJC North  
(202) 564-1345

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**From:** Wood, Robert <[Wood.Robert@epa.gov](mailto:Wood.Robert@epa.gov)>  
**Sent:** Monday, November 02, 2020 9:28 AM  
**To:** Levine, MaryEllen <[levine.maryellen@epa.gov](mailto:levine.maryellen@epa.gov)>  
**Subject:** FW: ELGs

Hi Mary Ellen,

Could you give me a call or alternatively an email reply with any information on the status of this? Thanks.

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*Robert Wood, Director  
Engineering and Analysis Division  
U.S. EPA Office of Water  
202-566-1822*

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**From:** Nagle, Deborah <[Nagle.Deborah@epa.gov](mailto:Nagle.Deborah@epa.gov)>  
**Sent:** Monday, November 02, 2020 9:21 AM  
**To:** Wood, Robert <[Wood.Robert@epa.gov](mailto:Wood.Robert@epa.gov)>  
**Subject:** FW: ELGs

You know about this?

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**From:** Wildeman, Anna <[wildeman.anna@epa.gov](mailto:wildeman.anna@epa.gov)>  
**Sent:** Monday, November 2, 2020 9:00 AM  
**To:** Nagle, Deborah <[Nagle.Deborah@epa.gov](mailto:Nagle.Deborah@epa.gov)>  
**Cc:** Bertrand, Charlotte <[Bertrand.Charlotte@epa.gov](mailto:Bertrand.Charlotte@epa.gov)>  
**Subject:** ELGs

Deborah, are you aware of this petition that was filed in 2017 requesting that EPA update its ELGs for large CAFOs?

**Anna Wildeman**

Principal Deputy Assistant Administrator

Office of Water

Environmental Protection Agency

1200 Pennsylvania Avenue, NW

Washington, DC 20460

202-564-5700

[Wildeman.Ann@epa.gov](mailto:Wildeman.Ann@epa.gov)